



# VIRGINIA

## REGISTER OF REGULATIONS

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JULY 15, 2013

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Virginia Code Commission

<http://register.dls.virginia.gov>

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# THE VIRGINIA REGISTER INFORMATION PAGE

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**THE VIRGINIA REGISTER OF REGULATIONS** is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, 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 18 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. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

*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; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Talver**; **Christopher R. Nolen**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **Karen Perrine**, Assistant Registrar; **Anne Bloomsburg**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

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# PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

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## July 2013 through September 2014

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
29:23	June 26, 2013	July 15, 2013
29:24	July 10, 2013	July 29, 2013
29:25	July 24, 2013	August 12, 2013
29:26	August 7, 2013	August 26, 2013
30:1	August 21, 2013	September 9, 2013
30:2	September 4, 2013	September 23, 2013
30:3	September 18, 2013	October 7, 2013
30:4	October 2, 2013	October 21, 2013
30:5	October 16, 2013	November 4, 2013
30:6	October 30, 2013	November 18, 2013
30:7	November 13, 2013	December 2, 2013
30:8	November 26, 2013 ( <b>Tuesday</b> )	December 16, 2013
30:9	December 11, 2013	December 30, 2013
30:10	December 23, 2013 ( <b>Monday</b> )	January 13, 2014
30:11	January 8, 2014	January 27, 2014
30:12	January 22, 2014	February 10, 2014
30:13	February 5, 2014	February 24, 2014
30:14	February 19, 2014	March 10, 2014
30:15	March 5, 2014	March 24, 2014
30:16	March 19, 2014	April 7, 2014
30:17	April 2, 2014	April 21, 2014
30:18	April 16, 2014	May 5, 2014
30:19	April 30, 2014	May 19, 2014
30:20	May 14, 2014	June 2, 2014
30:21	May 28, 2014	June 16, 2014
30:22	June 11, 2014	June 30, 2014
30:23	June 25, 2014	July 14, 2014
30:24	July 9, 2014	July 28, 2014
30:25	July 23, 2014	August 11, 2014
30:26	August 6, 2014	August 25, 2014
30:27	August 20, 2014	September 8, 2014

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF DENTISTRY

#### Initial Agency Notice

Title of Regulation: **18VAC60-20. Regulations Governing Dental Practice.**

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

Name of Petitioner: Deborah Hickman.

Nature of Petitioner's Request: To amend 18VAC60-20-72 to allow a dental assistant who holds a valid CDA issued by the Dental Assisting National Board and successfully completes the CRFDA certification to take the examination without attending dental assisting school.

Agency Plan for Disposition of Request: The petition will be published on July 15, 2013, in the Virginia Register of Regulations and also posted on the Virginia Regulatory Townhall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) to receive public comment ending August 15, 2013. The request to amend regulations and any comments for or against the petition will be considered by the board at its meeting scheduled for September 13, 2013.

Public Comment Deadline: August 15, 2013.

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

VA.R. Doc. No. R13-29; Filed June 18, 2013, 10:03 a.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF FORESTRY

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Forestry intends to consider amending **4VAC10-30, Virginia State Forests Regulations**. The purpose of the proposed action is to (i) insure that the regulations represent the current uses of state forests, (ii) insure a safe environment for the public, and (iii) provide a meaningful recreational experience for users, in concert with the normal operational business practices of the state forests.

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

Statutory Authority: § 10.1-1101 of the Code of Virginia.

Public Comment Deadline: August 14, 2013.

Agency Contact: Ronald S. Jenkins, Administrative Officer, Department of Forestry, 900 Natural Resources Drive, Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 293-2768, or email [ron.jenkins@dof.virginia.gov](mailto:ron.jenkins@dof.virginia.gov).

VA.R. Doc. No. R13-3756; Filed June 20, 2013, 9:47 a.m.

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# REGULATIONS

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

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## 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.

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## TITLE 1. ADMINISTRATION

### STATE BOARD OF ELECTIONS

**REGISTRAR'S NOTICE:** The State Board of Elections is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 8 of the Code of Virginia, which exempts agency action relating to the conduct of elections or eligibility to vote.

#### Final Regulation

**Title of Regulation:** 1VAC20-50. Candidate Qualification (adding 1VAC20-50-30).

**Statutory Authority:** § 24.2-103 of the Code of Virginia.

**Effective Date:** July 1, 2013.

**Agency Contact:** Myron McClees, Policy Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8949, FAX (804) 786-0760, or email myron.mcclees@sbe.virginia.gov.

#### Summary:

*Chapter 684 of the 2013 Acts of Assembly provides that candidates are given an opportunity to appeal a decision of signature insufficiency and requires the State Board of Elections to develop procedures for the conduct of such an appeal. The regulation provides a process that fills in specific procedures not directly addressed by the legislation, including (i) documents that must be submitted with a notice of appeal, (ii) notary requirements for the notice of appeal, (iii) who bears the burden of proof, (iv) necessary documentation to support claims of eligibility, (v) the number of board members' acquiescence necessary to reverse a previously rendered eligibility determination of a signature, and (vi) the finality of the appeal process.*

*Changes since publication of the proposed regulation (i) establish electronic mail as the preferred method of notifying a candidate of the time and location of an appeal hearing; (ii) remove the ability of a candidate to provide documents establishing that the petition signer filed certain applications to his local registrar while the locality's voter registration procedures were suspended; and (iii) change the deadline for submission of certain documents to at least two business days before the appeal proceeding, instead of two calendar days.*

#### **1VAC20-50-30. Appeals of petition signature insufficiency.**

**A.** Pursuant to the requirements of §§ 24.2-506 and 24.2-543 of the Code of Virginia, a candidate for office, other than a

party nominee, may appeal a determination that the candidate has failed to provide the required number of valid petition signatures necessary to qualify to appear on the ballot.

**B.** Any communication or notice required in this section shall be made in writing and delivered by mail or, unless otherwise prohibited by the Code of Virginia, electronically by electronic mail or facsimile. Notice of appeal from candidates must bear a photographically reproducible notary seal and be received by [ ~~the State Board of Elections prior to~~ ] the deadlines established within this section.

**C.** A candidate for a county, city, or town office shall file his appeal with the local electoral board. A candidate for any other office shall file his appeal with the State Board of Elections.

**D.** A candidate for an office other than President of the United States must file his appeal within five calendar days of the issuance of the notice of disqualification.

**E.** A candidate for President of the United States must file his appeal within seven calendar days of the issuance of the notice of disqualification.

**F.** The proper body to which the appeal notice was given shall establish the time and place where the appeal will be heard and convey this information immediately to the candidate. [ Electronic mail will be the preferred method of notifying the candidate if such address has been provided by the candidate; otherwise, notice shall be sent by first-class mail. ]

**G.** The candidate bears the burden of proof in establishing that a sufficient number of signatures from qualified voters were timely provided.

**1.** The candidate must submit a list containing the rejected signatures to be reviewed and the specific reason for each signature's reconsideration at least two [ ~~calendar~~ business ] days prior to the date on which the appeal will be heard. If the candidate submits no list, or submits a list that contains an insufficient number of names and reconsideration reasons to make up the number of signatures by which the candidate was deemed deficient, no appeal shall be held and the initial determination that the candidate did not qualify for the ballot will be final.

**2.** The candidate may submit documents clarifying the status of persons whose signatures were rejected for lacking proper registration status or residence.

**3.** The candidate may submit documents establishing the age of majority for any signer who was listed as ineligible due to status of being a legal minor.

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# Regulations

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4. The candidate may submit affidavits from persons whose signatures were rejected due to illegibility that attest to their identity. If possible, the affidavits should state the person's name, residence address, and a reasonable description of the location where approached by the circulator to sign the petition.

5. The candidate may not submit documents establishing that a petition signer became registered or updated his voter registration status to the address provided upon the petition after the established candidate filing deadline for the office sought. [ A candidate may provide documents establishing that the petition signer filed a Virginia voter registration application or change of address application to his local registrar during the period in which the locality's voter registration procedures were suspended in accordance with § 24.2-416 of the Code of Virginia. ]

H. Individual signatures reconsidered during the appeal will only count towards the candidate's requisite number if a majority of board members agree that sufficient evidence exists for their inclusion.

I. All determinations of the board before which the appeal is being heard shall be considered final and not subject to further appeal.

VA.R. Doc. No. R13-3750; Filed June 27, 2013, 9:18 a.m.

## Final Regulation

Title of Regulation: 1VAC20-70. Absentee Voting (amending 1VAC20-70-20).

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: June 26, 2013.

Agency Contact: Martha Brissette, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 371-0194, TTY (800) 260-3466, or email martha.brissette@sbe.virginia.gov.

### Summary:

*The amendment provides that an absentee ballot imperfectly sealed in Envelope B should not be rendered invalid, provided that (i) the ballot is contained within Envelope B, (ii) evidence of a good faith effort to seal the envelope exists, (iii) the outer envelope and the ballot arrived sealed, and (iv) the circumstances create no reason to suspect fraud. These standards are a change from the proposed language, which used a substantial compliance standard for deficiencies related to assembling the voted ballot package.*

### **1VAC20-70-20. Material omissions from absentee ballots.**

A. Pursuant to the requirements of § 24.2-706 of the Code of Virginia, a timely received absentee ballot contained in an Envelope B shall not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any Envelope B containing such omissions shall be rendered invalid if any of the following exists:

1. Except as provided in subdivisions C 2 and 3 of this section, the voter did not include his full first name;
2. The voter did not provide his last name;
3. If the voter has a legal middle name, the voter did not provide at least a middle initial;
4. The voter did not provide his house number and street name or his rural route address;
5. The voter did not provide either his city or zip code;
6. The voter did not sign Envelope B;
7. The voter did not provide the date on which he signed Envelope B; or
8. The voter's witness did not sign Envelope B; ~~or~~.
9. ~~The ballot is not sealed in Envelope B.~~

C. The ballot shall not be rendered invalid if on the Envelope B:

1. The voter included his full name in an order other than "last, first, middle";
2. The voter used his first initial instead of his first full name, so long as the voter provided his full middle name;
3. The voter provided a derivative of his legal name as his first or middle name (e.g., "Bob" instead of "Robert");
4. The voter did not provide his generational suffix;
5. The voter did not provide his residential street identifier (Street, Drive, etc.);
6. The voter did not provide a zip code, so long as the voter provided his city;
7. The voter did not provide his city, so long as the voter provided his zip code;
8. The voter omitted the year in the date on which he signed Envelope B; ~~or~~
9. The voter provided the incorrect date on which he signed Envelope B; or
10. The [ voter did not seal the ] ballot [ is imperfectly sealed ] within Envelope B, provided [ there is substantial compliance with the requirement ] that the ballot [ be accompanied by the required Statement of Voter is contained within Envelope B, there is evidence that a good faith effort was made to seal the envelope, the outer envelope with Envelope B and the ballot arrived sealed, and the circumstances create no reason to suspect fraud ].

D. For the purposes of this regulation, "city" may include the voter's locality, town, or any acceptable mailing name for the five-digit zip code of the voter's residence.

E. The illegibility of a voter's or witness' signature on an Envelope B shall not be considered an omission or error.

F. Whether an error or omission on an Envelope B not specifically addressed by this regulation is material and shall render the absentee ballot invalid shall be determined by a majority of the officers of the election present.

VA.R. Doc. No. R13-3739; Filed June 26, 2013, 3:31 p.m.

**Final Regulation**

Title of Regulation: **1VAC20-70. Absentee Voting (amending 1VAC20-70-30).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: June 26, 2013.

Agency Contact: Martha Brissette, Policy Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 371-0194, TTY (800) 260-3466, or email martha.brissette@sbe.virginia.gov.

Summary:

*The amendment provides that a Federal Write-In Absentee Ballot should not be rendered invalid if the applicant did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement.*

**1VAC20-70-30. Material omissions from Federal Write-In Absentee Ballots.**

A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;
2. The applicant has omitted the signature of the witness;
3. The applicant did not include the declaration/affirmation page; or
4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but not limited to, current military or overseas address.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;
2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;
4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;
5. The applicant has omitted the zip code;
6. The applicant has omitted the date of the signature of the voter;
7. The applicant has omitted the address of the witness;
8. The applicant has omitted the date of signature of the witness;
9. The applicant ~~has omitted a security envelope~~ did not seal the ballot within the security envelope, provided there is substantial compliance with the requirement that the ballot be accompanied by the required voter statement; or
10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

VA.R. Doc. No. R13-3742; Filed June 26, 2013, 3:27 p.m.

**Final Regulation**

Title of Regulation: **1VAC20-70. Absentee Voting (amending 1VAC20-70-40).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Effective Date: July 1, 2013.

Agency Contact: Lindsay Fraser, Election Uniformity Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8936, FAX (804) 371-0194, or email lindsay.fraser@sbe.virginia.gov.

Summary:

*In response to Chapter 501 of the 2013 Acts of Assembly, the amendment gives the general registrar responsibility for taking the steps needed to prepare absentee ballots for counting after polls close on election day.*

**1VAC20-70-40. Alternative counting processing procedures for absentee ballots returned before election day.**

~~An electoral board that approves use of alternative procedures for~~ Each general registrar in taking the measures as needed to expedite counting absentee ballots under § 24.2-709.1 of the Code of Virginia shall ensure that:

1. The general registrar staff assigned follow all previously prescribed instructions for processing and verifying absentee ballots.
2. All absentee ballots are secured at the end of each day following principles of dual control and chain of custody.
3. The general registrar staff assigned follow carefully all the requirements of § 24.2-709.1 of the Code of Virginia, including the requirement that at least two officers of election, one representing each party, be present during all hours that the expedited procedures are used.

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4. Notice is given to the local political party chairs of the times and places for processing absentee ballots in sufficient time to allow for the authorized party representatives to be present.

VA.R. Doc. No. R13-3741; Filed June 26, 2013; 2:54 p.m.

◆ ————— ◆

## TITLE 2. AGRICULTURE

### BOARD OF AGRICULTURE AND CONSUMER SERVICES

#### Proposed Regulation

**Title of Regulation:** 2VAC5-317. **Regulations for the Enforcement of the Noxious Weeds Law (adding 2VAC5-317-10 through 2VAC5-317-100).**

**Statutory Authority:** § 3.2-802 of the Code of Virginia.

**Public Hearing Information:**

July 29, 2013 - 2 p.m. - Virginia Horse Center, Anderson Coliseum, Mezzanine, 487 Maury River Road, Lexington, VA

**Public Comment Deadline:** September 13, 2013.

**Agency Contact:** Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email erin.williams@vdacs.virginia.gov.

**Basis:** Section 3.2-109 of the Code of Virginia authorizes the board to adopt regulations in accordance with Title 3.2 of the Code of Virginia regarding agriculture, animal care, and food.

The department administers the provisions of the Noxious Weeds Law (§ 3.2-800 et seq. of the Code of Virginia). Section 3.2-802 of the Code of Virginia authorizes the board to establish regulations under which certain plants can be listed as noxious weeds. Moreover, the board may adopt regulations pertaining to regulated articles and conditions for their movement, under which the commissioner may proceed to conduct eradication or suppression activities to prevent the dissemination of noxious weeds in the Commonwealth. The board may also adopt regulations governing the movement of regulated articles entering the Commonwealth from other locations.

**Purpose:** The proposed regulation is necessary to protect the Commonwealth's agricultural and natural resources from the detrimental impact of noxious weeds. Listed noxious weeds are non-native exotic plants with very few or no natural predators or existing environmental conditions to control their rapid rate of growth. As a result, noxious weeds can grow rapidly and displace native plants. In addition, the habitat of wildlife can be altered as these plants invariably change the ecosystem by competing with and displacing native plants.

Eradication of noxious weeds may not be feasible once populations have become established and widespread. This regulation will allow the Commonwealth to conduct activities to prevent the establishment of listed noxious weeds in Virginia. As the establishment of a noxious weed can lead to significant economic losses due to associated eradication and control costs, this regulation will also assist in protecting the economic welfare of citizens.

**Substance:** The proposed regulation establishes two tiers of noxious weeds. The distinction between the two tiers of noxious weeds depends on whether eradication of the listed plants is likely. The regulation provides that the Commissioner of the Department of Agriculture and Consumer Services may conduct eradication or suppression activities to prevent the dissemination of a Tier 1 noxious weed. Tier 2 noxious weeds are those for which successful suppression is feasible, but for which eradication is unlikely.

Under the proposed regulation, the movement of a listed noxious weed or any article known to be infested with a noxious weed is prohibited, unless the Virginia Department of Agriculture and Consumer Services (VDACS) issues a certificate or permit for the movement of the noxious weed. The regulation also establishes conditions under which VDACS may issue a certificate or permit.

The regulation provides a list of eradication or suppression activities the commissioner may conduct to prevent the dissemination of a Tier 1 noxious weed.

The regulation establishes a Noxious Weeds Advisory Committee to advise the commissioner on those plants it recommends for declaration as noxious weeds or for delisting.

**Issues:** The primary advantage of the proposed regulation is the protection of the Commonwealth's agricultural and natural resources from the detrimental impact of noxious weeds. The proposed regulation poses no disadvantages to the public or the Commonwealth.

The agency anticipates implementing a science-based assessment of possible plants for listing as noxious weeds that will facilitate consensus among affected interest groups.

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

Summary of the Proposed Regulation. The Virginia Department of Agriculture and Consumer Services (VDACS) proposes to promulgate new regulations to enforce the noxious weeds law passed by the General Assembly in 1970. In these regulations, VDACS will:

1. Create a definitions section for terms used throughout the regulation including a definition of noxious weed,
2. Establish two tiers of noxious weeds: Tier 1 weeds could likely be eradicated or suppressed, while Tier 2 weeds would be more likely to be suppressed rather than eradicated,

3. Prohibit the movement of a listed noxious weed, or any article known to be infested with a noxious weed, unless VDACS issues a permit for such movement,
4. Establish conditions that must be satisfied before VDACS would issue a permit for the movement of noxious weeds,
5. Mandate that the limited permit be applied for no fewer than five business days before the regulated article is to be moved,
6. Require that the regulated article be assembled in accordance with what the inspector deems necessary to facilitate inspection,
7. Establish requirements for the attachment of a certificate or permit to the article being moved. This would include a shippers retention requirement at the place of the shipment, and
8. Authorize VDACS inspectors to stop and inspect, and to seize, destroy, or otherwise dispose of, articles regulated under these proposed regulations. This authorization repeats powers that agents of the VDACS Commissioner more generally have been given by Code of Virginia § 3.2-805.

**Result of Analysis.** There is insufficient information to ascertain whether benefits will outweigh costs for this regulatory action.

**Estimated Economic Impact.** As allowed by § 3.2-802 of the Code of Virginia, the Virginia Department of Agriculture and Consumer Services (VDACS) proposes to promulgate new regulations to prevent plants on the noxious weeds list from taking hold through regulation of movement of such plants and eradication or suppression efforts. With these regulations, the Board proposes to set a list of plants that qualify as noxious weeds, prohibit the movement of listed plants into, out of or within the state without a permit issued by a VDACS inspector. The Board also proposes to set criteria for issuance of permits which include that the plants to be moved are packaged and handled in such a way that movement will not spread the plant, that any additional conditions that the inspector deems necessary to minimize the risk of spreading the plant are followed and that the plant is not subject to any other quarantines within the state.

VDACS reports that they do not charge fees for their inspection of noxious weeds and/or other items that may be infested by noxious weeds nor do they charge a fee for the permits that will be required to transport noxious weeds or "any article or means of conveyance known to be infested or determined by an inspector to present a risk of spreading a listed noxious weed". Entities would likely incur some costs for time spent applying for permits and facilitating inspections. VDACS further reports that, at this time, they do not have the power to fine entities that move regulated items without the required permit (although the Commissioner of VDACS or his designee may, according to § 3.2-805, "stop

delivery, stop sale, seize, destroy, treat, or order returned to the point of origin, at the owner's expense, any noxious weed, article, or substance whatsoever, if transported or moved within the Commonwealth, or if existing on any premise, or brought into the Commonwealth from any place outside thereof, if such is found by him to be infested with any noxious weed"). Plants that are on the noxious weeds list that are being transported into the state would be inspected in the originating state by that state's Department of Agriculture, which may charge a fee for that service. Additionally, affected entities may incur costs associated with eradicating or suppressing noxious weeds found on their land and may incur loss of income if otherwise salable items, including agricultural products, are determined to be infested with, or at risk of spreading, a listed noxious weed. In this case, these items would not be able to be transported or sold so the owner of these items would lose the value that he would have otherwise gained from that sale. These costs may be weighed against the benefit of eradicating completely or controlling the spread of plants that have been deemed noxious weeds. As these are new regulations, there is insufficient information to measure the magnitude of costs and benefits for this proposed regulatory action.

**Businesses and Entities Affected.** VDACS believes that mainly landowners may be affected by these proposed regulations.

**Localities Particularly Affected.** No locality is likely to be particularly affected by these proposed regulations.

**Projected Impact on Employment.** There is currently insufficient information to project the impact that these proposed regulations may have on employment in the Commonwealth.

**Effects on the Use and Value of Private Property.** Individuals whose land is determined to be infested with a noxious weed may see the value of that land fall, at least temporarily, until eradication or suppression efforts can be undertaken.

**Small Businesses: Costs and Other Effects.** To the extent that these regulations lead to the quarantine of otherwise salable items that have been determined by VDACS to either be infested with a noxious weed or to present a risk of spreading a noxious weed, the individuals or businesses that own those items would likely lose their value.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** There is likely no alternate method for meeting VDACS' goals that would further minimize costs.

**Real Estate Development Costs.** To the extent that undeveloped real estate is infested with a noxious weed, real estate development costs may increase because land owners would likely be responsible for the costs of eradication or suppression: VDACS might undertake eradication/suppression actions but the agency would decide on a case by case basis whether to do so. Owners of affected land would likely also incur implicit and explicit costs (costs

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for rental equipment sitting idle, for instance) associated with delays in their schedule for development.

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 Department of Agriculture and Consumer Services concurs with the analysis of the Department of Planning and Budget.

## Summary:

*The proposed regulation seeks to eradicate, suppress, and prevent the dissemination of noxious weeds in the Commonwealth by (i) establishing a two-tier list of plants deemed by the Board of Agriculture and Consumer Services to be noxious weeds, (ii) prohibiting the movement of noxious weeds or articles capable of transporting noxious weeds into or within the Commonwealth, and (iii) identifying eradication activities for certain noxious weeds.*

## CHAPTER 317

### REGULATIONS FOR THE ENFORCEMENT OF THE NOXIOUS WEEDS LAW

#### 2VAC5-317-10. Definitions.

The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Board" means the Virginia Board of Agriculture and Consumer Services.

"Business day" means a day that is not a Saturday, Sunday, or legal holiday, or a day on which state government offices are closed.

"Certificate" means a document issued by an inspector or by a person operating in accordance with a compliance agreement to allow the movement of regulated articles to any destination.

"Commissioner" means the Commissioner of the Virginia Department of Agriculture and Consumer Services.

"Compliance agreement" means a written agreement between a person engaged in handling, receiving, or moving regulated articles and the Virginia Department of Agriculture and Consumer Services or the United States Department of Agriculture, or both, wherein the former agrees to fulfill the requirements of the compliance agreement and comply with the provisions of this chapter.

"Consignee" means any person to whom any regulated article is shipped for handling, sale, resale, or any other purpose.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Infested" or "infestation" means the presence of a listed noxious weed or the existence of circumstances that make it reasonable to believe that life stages of a listed noxious weed are present.

"Inspector" means an employee of the Virginia Department of Agriculture and Consumer Services or other person authorized by the Commissioner of the Virginia Department of Agriculture and Consumer Services to enforce the provisions of this chapter.

"Limited permit" means a document issued by an inspector to allow the movement of regulated articles to a specific destination.

"Listed noxious weed" means any plant listed in this chapter as either a Tier 1 or Tier 2 noxious weed.

"Move," "moved," or "movement" means shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

"Noxious weed" means the term as defined in § 3.2-800 of the Code of Virginia.

"Noxious Weeds Law" means the statute set forth in § 3.2-800 et seq. of the Code of Virginia.

"Person" means the term as defined in § 1-230 of the Code of Virginia.

"Regulated article" means any listed noxious weed or any article or means of conveyance known to be infested or determined by an inspector to present a risk of spreading a listed noxious weed.

"Tier 1 noxious weed" means any noxious weed that is not native to the Commonwealth that (i) has no known populations present in the Commonwealth or (ii) is not widely disseminated in the Commonwealth and for which successful eradication or suppression is likely.

"Tier 2 noxious weed" means any noxious weed that (i) is not native to the Commonwealth, (ii) is not widely

disseminated in the Commonwealth, and (iii) for which successful suppression is feasible but eradication is unlikely.

"Waybill" means a document containing the details of a shipment of goods.

## **2VAC5-317-20. Tier 1 and Tier 2 noxious weeds.**

A. The following plants are hereby declared Tier 1 noxious weeds:

1. Vitex rotundifolia, Beach vitex.
2. Salvinia molesta, Giant salvinia.
3. Solanum viarum, Tropical soda apple.
4. Heracleum mantegazzianum, Giant hogweed.
5. Oplismenus hirtellus spp. undulatifolius, Wavyleaf basketgrass.

B. The following plants are hereby declared Tier 2 noxious weeds:

1. Imperata cylindrica, Cogon grass. The cultivar Imperata cylindrica "Red Baron" (Japanese blood grass) is not subject to the provisions of this chapter.
2. Lythrum salicaria, Purple loosestrife.
3. Ipomoea aquatica, Water spinach.

## **2VAC5-317-30. Conditions governing the intrastate movement of regulated articles.**

The movement of a regulated article is prohibited unless accompanied by a valid certificate or limited permit.

## **2VAC5-317-40. Issuance and cancellation of certificates and limited permits.**

A. A certificate or a limited permit may be issued by an inspector for the movement of a regulated article into, within, or out of the Commonwealth when the regulated article meets the following three conditions:

1. The regulated article is to be moved:
  - a. Intrastate to a specified destination under conditions that specify the limited handling, utilization, processing, or treatment of the article when the inspector determines that such movement will not result in the spread of the noxious weed; or
  - b. By a state or federal agency, or person authorized by the department, for experimental or scientific purposes;
2. The regulated article is to be moved in compliance with all additional conditions deemed necessary under the Noxious Weeds Law to prevent the spread of the noxious weed; and
3. The regulated article is eligible for unrestricted movement under all other domestic plant quarantines and regulations applicable to the regulated article.

B. Any certificate or limited permit that has been issued or authorized may be withdrawn by the inspector orally or in writing if the inspector determines that the holder of the certificate or limited permit has not complied with all conditions for the use of the certificate or limited permit, or

with any applicable compliance agreement. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing and communicated to the certificate or limited permit holder as promptly as circumstances allow.

## **2VAC5-317-50. Assembly and inspection of regulated articles.**

A. Any person who desires to move a regulated article and who is required to have a limited permit for such movement shall apply for a limited permit as far in advance as practical but no fewer than five business days before the regulated article is to be moved.

B. The regulated article must be assembled at the place and in the manner the inspector designates as necessary to facilitate inspection and shall be safeguarded to prevent infestation.

## **2VAC5-317-60. Attachment and disposition of certificates and limited permits.**

A. A certificate or limited permit required for the movement of a regulated article into, within, or out of the Commonwealth must be attached at all times during the intrastate movement to the outside of the container that contains the regulated article or to the regulated article itself. The requirements of this section may also be met by attaching the certificate or limited permit to the consignee's copy of the waybill, provided the regulated article is sufficiently described on the certificate or limited permit and on the waybill to facilitate the identification of the regulated article.

B. The certificate or limited permit for the intrastate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article. A copy of the certificate or the limited permit must be retained by the sender of the regulated article at the place of shipment.

## **2VAC5-317-70. Inspection and disposal of regulated articles.**

Upon presentation of official credentials, an inspector is authorized to stop and inspect and to seize, destroy, or otherwise dispose of or require disposal of regulated articles in accordance with the provisions of the Noxious Weeds Law.

## **2VAC5-317-80. Eradication and suppression activities for Tier 1 noxious weeds.**

The commissioner may conduct eradication or suppression activities to prevent the dissemination of a Tier 1 noxious weed. Eradication or suppression activities may include, but are not limited to, the following: destruction, seizure, stop sale, stop delivery, treatment, or ordering the regulated article to be returned to its point of origin.

## **2VAC5-317-90. Nonliability of the department.**

The department shall not be liable for costs incurred by third parties resulting from, or incidental to, inspections required under the provisions of this chapter.

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## **2VAC5-317-100. Noxious Weeds Advisory Committee.**

The commissioner shall convene an annual meeting of the Noxious Weeds Advisory Committee. The committee shall advise the commissioner on those plants that the commissioner, at his discretion, may present to the board for declaration or delisting as noxious weeds.

VA.R. Doc. No. R12-2814; Filed June 12, 2013, 4:47 p.m.

### **Final Regulation**

**Title of Regulation:** **2VAC5-321. Regulation of the Harvest and Purchase of Wild Ginseng (adding 2VAC5-321-10 through 2VAC5-321-50).**

**Statutory Authority:** § 3.2-1002 of the Code of Virginia.

**Effective Date:** August 14, 2013.

**Agency Contact:** Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email erin.williams@vdacs.virginia.gov.

#### **Summary:**

*The regulation (i) allows the harvest of wild ginseng that is five years of age or older; (ii) establishes an annual harvest season from September 1 to December 31; (iii) requires harvesters to plant wild ginseng fruit at the harvest site; and (iv) establishes a purchase season for licensed dealers of September 1 to January 14 for uncertified green wild ginseng root and September 15 to March 31 for uncertified dry wild ginseng root.*

**Summary of Public Comments and Agency's Response:** A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

### **CHAPTER 321**

### **REGULATION OF THE HARVEST AND PURCHASE OF WILD GINSENG**

#### **2VAC5-321-10. Definitions.**

The following words and terms shall have the following meaning unless the context clearly indicates otherwise:

"Artificially propagated" means cultivated, woodsgrown, or any other method of producing ginseng under controlled conditions that include, but are not limited to, tillage, fertilization, and pesticide application.

"Certified wild ginseng" means wild ginseng for which the department has issued a Ginseng Inspection Certificate.

"Cultivated" means purposefully planted in beds under artificial shade using standard horticultural practices such as mechanical tillage, fertilization, weed control, irrigation, and [ ~~pesticides~~ pesticide application ].

"Dealer" means a person licensed by the department pursuant to § 3.2-1007 of the Code of Virginia to buy or otherwise accept wild ginseng or parts thereof for resale.

"Department" means the Virginia Department of Agriculture and Consumer Services.

"Person" means the term as defined in § 1-230 of the Code of Virginia.

"Prong" means a leaf with five leaflets.

"Rhizome" means a horizontal plant stem with shoots above and roots below.

"Uncertified dry wild ginseng root" means wild ginseng root that contains no moisture or that lacks sufficient moisture to remain viable and for which the department has not issued a Ginseng Inspection Certificate.

"Uncertified green wild ginseng root" means wild ginseng root that contains sufficient moisture to be viable and for which the department has not issued a Ginseng Inspection Certificate.

"Wild ginseng" means American ginseng, Panax quinquefolius L., that is grown with minimal human interference and is not artificially propagated.

"Woodsgrown" means purposefully planted in beds prepared in the woods in a manner that uses trees to provide necessary shade and may be grown with the use of chemical or mechanical weed, disease, or pest control agents.

#### **2VAC5-321-20. Regulated articles.**

The plant and plant parts of wild ginseng in any life stage are regulated under the provisions of this chapter.

#### **2VAC5-321-30. Conditions governing the harvest of wild ginseng.**

A. The harvest season for wild ginseng begins on September 1 and ends on December 31 of each year.

B. A person may not harvest wild ginseng from January 1 through August 31 of each year.

C. A person may not harvest wild ginseng that:

1. Is younger than five years of age;
2. Has fewer than four stem scars present on its rhizome; or
3. Has fewer than three prongs.

D. A person who harvests wild ginseng must plant the seeds of the harvested plant at the harvest site at the time of harvest.

#### **2VAC5-321-40. Conditions governing the purchase of wild ginseng.**

A. A dealer may purchase certified wild ginseng at any time throughout the year.

B. A dealer may only purchase uncertified green wild ginseng root from September 1 of each year through January 14 of the following year.

C. A dealer may only purchase uncertified dry wild ginseng root from September 15 of each year through March 31 of the following year.

**2VAC5-321-50. Exceptions.**

A. Pursuant to §§ 3.2-1003 and 3.2-1007 of the Code of Virginia, the provisions of this chapter do not apply to any person harvesting wild ginseng from his own land.

B. The provisions of this chapter do not apply to any person harvesting wild ginseng in accordance with a permit issued pursuant to § 3.2-1004 of the Code of Virginia.

VA.R. Doc. No. R12-2813; Filed June 18, 2013, 10:52 a.m.



## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

**REGISTRAR'S NOTICE:** The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

#### Final Regulation

**Title of Regulation:** 4VAC20-200. Pertaining to the Requirements for Reporting Oyster Transactions and Payment of Taxes (repealing 4VAC20-200-10 through 4VAC20-200-50).

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

**Effective Date:** July 1, 2013.

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

**Summary:**

*The amendments repeal the oyster tax regulations because the regulations will be replaced by oyster user fees enacted by Chapter 38 of the 2013 Acts of Assembly.*

VA.R. Doc. No. R13-3734; Filed June 26, 2013, 12:46 p.m.

#### Final Regulation

**Title of Regulation:** 4VAC20-270. Pertaining to Crabbing (amending 4VAC20-270-51, 4VAC20-270-56).

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

**Effective Date:** June 26, 2013.

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

**Summary:**

*The amendments clarify that all 2013 crab bushel limits are daily limits and not trip limits.*

#### 4VAC20-270-51. ~~Harvester and~~ Daily commercial harvester, vessel, and harvest and possession limits.

A. Any barrel used by a harvester to contain or possess any amount of crabs will be equivalent in volume to no more than 3 bushels of crabs.

B. From March 16, 2013, through November 30, 2013, any harvester legally licensed for a crab pot license, as defined in 4VAC20-270-50 B, shall be limited to the following daily harvest and possession limits shown below:

1. 27 bushels, or 9 barrels, of crabs, if licensed for up to 85 crab pots.
2. 32 bushels, or 10 barrels and 2 bushels, if licensed for up to 127 crab pots.
3. 38 bushels, or 12 barrels and 2 bushels, if licensed for up to 170 crab pots.
4. 45 bushels, or 15 barrels, if licensed for up to 255 crab pots.
5. 55 bushels, or 18 barrels and 1 bushel, if licensed for up to 425 crab pots.

C. When multiple harvesters are on board any vessel, that vessel's daily harvest and possession limit shall be equal to only one harvest and possession limit, as described in 4VAC20-270-51 B, and that daily limit shall correspond to the highest harvest and possession limit of only one licensee on board that vessel.

D. When transporting or selling one or more legal crab pot licensee's crab harvest in bushels or barrels, any agent shall possess either the crab pot license of that one or more crab pot licensees or a bill of lading indicating each crab pot licensee's name, address, Commercial Fisherman Registration License number, date, and amount of bushels or barrels of crabs to be sold.

E. If any police officer finds crabs in excess of any lawful daily bushel ~~or~~ barrel, or vessel limit, as described in this section, that excess quantity of crabs shall be returned immediately to the water by the licensee or licensees who possess that excess over ~~any single or combined~~ lawful daily harvest or possession limit. The refusal to return crabs, in excess of any lawful daily harvest or possession limit, to the water shall constitute a separate violation of this chapter.

~~F. The bushel and barrel limits described in this chapter replace any provisions for bushel limits described in previous 4VAC20-300.~~

#### 4VAC20-270-56. ~~Recreational~~ Daily recreational harvest and possession limit.

It shall be unlawful to take by using an unlicensed dip net or hand line, or two crab pots, or to harvest or possess for personal use aboard any vessel, more than one bushel of hard crabs or two dozen peeler crabs per day.

VA.R. Doc. No. R13-3776; Filed June 26, 2013, 12:39 p.m.

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# Regulations

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## Final Regulation

**Title of Regulation:** 4VAC20-450. Pertaining to the Taking of Bluefish (amending 4VAC20-450-30).

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

**Effective Date:** July 1, 2013.

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

**Summary:**

*The amendments set the commercial bluefish quota for 2013 at 1,078,179 pounds and for 2014 at 1,030,419 pounds.*

### 4VAC20-450-30. Commercial landings quota.

A. During the period of January 1 through December 31, commercial landings of bluefish shall be limited to ~~1,225,649~~ 1,078,179 pounds in 2013 and 1,030,419 pounds in 2014.

B. When it is projected that 95% of the commercial landings quota has been realized, a notice will be posted to close commercial harvest and landings from the bluefish fishery within five days of posting.

C. It shall be unlawful for any person to harvest or land bluefish for commercial purposes after the closure date set forth in the notice described in subsection B of this section.

VA.R. Doc. No. R13-3777; Filed June 26, 2013, 1:14 p.m.

## Final Regulation

**Title of Regulation:** 4VAC20-490. Pertaining to Sharks (amending 4VAC20-490-44).

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

**Effective Date:** July 1, 2013.

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

**Summary:**

*The amendments allow the federal dealer reports to the Standard Atlantic Fisheries Information System to satisfy the limited entry requirement for the commercial spiny dogfish fishery.*

### 4VAC20-490-44. Spiny dogfish limited entry fishery permit and permit transfers.

A. It shall be unlawful for any person to take, catch, possess, or land any spiny dogfish without first having obtained a spiny dogfish limited entry fishery permit from the Marine Resources Commission. Such permit shall be completed in full by the permittee who shall keep a copy of that permit in his possession while fishing for or selling spiny dogfish. Permits shall only be issued to Virginia registered

commercial fishermen meeting either of the criteria described in subdivision 1 or 2 of this subsection:

1. Shall have ~~documented~~ documentation of (i) harvest from a movable gill net for an average of at least 60 days from 2006 through 2008, (ii) a minimum harvest of one pound of spiny dogfish at any time from 2006 through 2008, and (iii) harvest of at least one pound of spiny dogfish from May 1, 2010, through April 30, 2012, ~~on Virginia mandatory harvest reporting forms in the Marine Resources Commission's mandatory harvest reporting system, except that federal dealer reports to the Standard Atlantic Fisheries Information System can satisfy the one pound harvest requirement, for May 1, 2010, through April 30, 2012.~~

2. Shall have ~~documented~~ documentation of (i) harvests that total greater than 10,000 pounds of spiny dogfish in any one year from 2006 through 2008, and (ii) harvest of at least one pound of spiny dogfish from May 1, 2010, through April 30, 2012, ~~on Virginia mandatory harvest reporting forms in the Marine Resources Commission's mandatory harvest reporting system, except that federal dealer reports to the Standard Atlantic Fisheries Information System can satisfy the one pound harvest requirement, for May 1, 2010, through April 30, 2012.~~

B. Any smooth dogfish or unidentified dogfish documented on Virginia mandatory reporting forms as harvested during the months of November through February 2006 through 2008 shall be classified as spiny dogfish when determining eligibility for a Spiny Dogfish Limited Entry Fishery Permit as described in subdivisions A 1 and A 2 of this section.

C. It is unlawful to transfer any spiny dogfish limited entry fishery permit after November 23, 2009.

D. The use of agents in the spiny dogfish fishery is prohibited.

E. The commissioner or his designee may grant exceptions to the prohibition against transfers of the spiny dogfish limited entry fishery permit as described in subsection C of this section to any individual who meets any of the following criteria:

1. Demonstrates a significant hardship on the basis of health and provides the commissioner documentation, by an attending physician, of the medical condition.

2. Demonstrates a significant hardship on the basis of a call to active military duty and provides the commissioner an explanation, in writing, and copy of the military orders for active duty.

3. Documents the retirement or death of the immediate family member permitted for the spiny dogfish limited entry fishery and possessing a legal Commercial Fisherman Registration License.

VA.R. Doc. No. R13-3781; Filed June 26, 2013, 3:06 p.m.

**Final Regulation**

**Title of Regulation:** 4VAC20-610. Pertaining to Commercial Fishing and Mandatory Harvest Reporting (amending 4VAC20-610-20, 4VAC20-610-60).

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

**Effective Date:** July 1, 2013.

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

**Summary:**

*The amendments (i) clarify the definitions of "clam aquaculture harvester" and "oyster aquaculture harvester" and (ii) delete the reference to the reporting of oyster harvest and taxes, which have been replaced by the establishment of oyster resource user fees.*

**4VAC20-610-20. Definitions.**

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

"Agent" means any person who possesses the commercial fisherman registration license, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

"Clam aquaculture harvester" means any person who harvests clams from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters.

"Clam aquaculture product owner" means any person or firm that owns clams on leased, subleased, or fee simple ground, or any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336, General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Clam aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by a clam aquaculture product owner, used to transport clam aquaculture harvesters who do not possess an individual clam aquaculture harvester permit.

"Commission" means the Marine Resources Commission.

"Commissioner" means the Commissioner of the Marine Resources Commission.

"Continuing business enterprise" means any business that is required to have a Virginia Seafood Buyer's License or is required to have a business license by county, city or local ordinance.

"Oyster aquaculture harvester" means any person who harvests oysters from leased, subleased, or fee simple ground or any aquaculture growing area, within or adjacent to Virginia tidal waters.

"Oyster aquaculture product owner" means any person or firm that owns oysters on leased, subleased, or fee simple ground, or any aquaculture growing area within or adjacent to Virginia tidal waters that are raised by any form of aquaculture. This does not include any riparian shellfish gardeners whose activities are authorized by 4VAC20-336, General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities.

"Oyster aquaculture product owner vessel" means any vessel, legally permitted through a no-cost permit, by an oyster aquaculture product owner, used to transport oyster aquaculture harvesters who do not possess an individual oyster aquaculture harvester permit.

"Sale" means sale, trade, or barter.

"Sell" means sell, trade, or barter.

"Selling" means selling, trading, or bartering.

"Sold" means sold, traded, or bartered.

**4VAC20-610-60. Mandatory harvest reporting.**

A. It shall be unlawful for any valid commercial fisherman registration licensee, seafood landing licensee, oyster aquaculture product owner permittee, or clam aquaculture product owner permittee to fail to fully report harvests and related information as set forth in this chapter.

B. It shall be unlawful for any recreational fisherman, charter boat captain, head boat captain, commercial fishing pier operator, or owner of a private boat licensed pursuant to §§ 28.2-302.7 through 28.2-302.9 of the Code of Virginia, to fail to report recreational harvests, upon request, to those authorized by the commission.

C. All registered commercial fishermen and any valid seafood landing licensee shall complete a daily form accurately quantifying and legibly describing that day's harvest from Virginia tidal waters and federal waters. The forms used to record daily harvest shall be those provided by the commission or another form approved by the commission. Registered commercial fishermen and seafood landing licensees may use more than one form when selling to more than one buyer.

D. Any oyster aquaculture product owner permittee or clam aquaculture product owner permittee shall complete a monthly form accurately quantifying and legibly describing that month's harvest from Virginia tidal waters. The forms used to record monthly harvest shall be those provided by the commission or another form approved by the commission.

E. Registered commercial fishermen, seafood landing licensees, valid oyster aquaculture product owner permittees and valid clam aquaculture product owner permittees shall submit a monthly harvest report to the commission no later

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than the fifth day of the following month. This report shall be accompanied by the daily harvest records described in subsection F of this section. Completed forms shall be mailed or delivered to the commission or other designated locations.

F. The monthly harvest report requirements shall be as follows:

1. Registered commercial fishermen shall be responsible for providing monthly harvest report and daily harvest records that include the name and signature of the registered commercial fisherman and his commercial fisherman's registration license number; the name and license registration number of any agent, if used; the license registration number of no more than five helpers who were not serving as agents; any buyer or private sale information; the date of any harvest; the city or county of landing that harvest; the water body fished, gear type, and amount of gear used for that harvest; the number of hours any gear was fished and the number of hours the registered commercial fisherman fished; the number of crew on board, including captain; species harvested; market category; live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number). Any information on the price paid for the harvest may be provided voluntarily.

2. The monthly harvest report from oyster aquaculture product owner permittees and clam aquaculture product owner permittees shall include the name, signature, permit number, lease number, date of the last day of the reporting month, city or county of landing, gear (growing technique) used, weight or amount of species harvested by market category, total number of individual crew members for the month, and buyer or private sale information.

3. The monthly harvest report and daily harvest records from seafood landing licensees shall include the name and signature of the seafood landing licensee and his seafood landing license number; buyer or private sale information; date of harvest; city or county of landing; water body fished; gear type and amount used; number of hours gear fished; number of hours the seafood landing licensee fished; number of crew on board, including captain; nonfederally permitted species harvested; market category; live weight or processed weight of species harvested; and vessel identification (Coast Guard documentation number, Virginia license number, or hull/VIN number).

G. Registered commercial fishermen, oyster aquaculture product owner permittees and clam aquaculture product owner permittees not fishing during a month, or seafood landing licensees not landing in Virginia during a month, shall so notify the commission no later than the fifth of the following month by postage paid postal card provided by the commission or by calling the commission's toll free telephone line.

H. Any person licensed as a commercial seafood buyer pursuant to § 28.2-228 of the Code of Virginia shall maintain for a period of one year a copy of each fisherman's daily harvest record form for each purchase made. Such records shall be made available upon request to those authorized by the commission.

I. Registered commercial fishermen, seafood landing licensees, oyster aquaculture product owner permittees and clam aquaculture product owner permittees shall maintain their harvest records for one year and shall make them available upon request to those authorized by the commission.

J. Registered commercial fishermen, seafood landing licensees, and licensed seafood buyers shall allow those authorized by the commission to sample harvest and seafood products to obtain biological information for scientific and management purposes only. Such sampling shall be conducted in a manner that does not hinder normal business operations.

~~K. The reporting of oyster harvest and transactions by licensed seafood buyers, oyster aquaculture product owner permittees, clam aquaculture product owner permittees, and any registered commercial fisherman who self markets his oyster harvest shall be made in accordance with 4VAC20-200 and Article 3 (§ 28.2-538 et seq.) of Chapter 5 of Title 28.2 of the Code of Virginia.~~

~~L. K.~~ The reporting of the harvest of federally permitted species from beyond Virginia's tidal waters that are sold to a federally permitted dealer shall be exempt from the procedures described in this section.

~~M. L.~~ The owner of any purse seine vessel or bait seine vessel (snapper rig) licensed under the provisions of § 28.2-402 of the Code of Virginia shall submit the Captain's Daily Fishing Reports to the National Marine Fisheries Service, in accordance with provisions of Amendment 1 to the Interstate Fishery Management Plan of the Atlantic States Marine Fisheries Commission for Atlantic Menhaden, which became effective July 2001.

VA.R. Doc. No. R13-3760; Filed June 27, 2013, 12:34 p.m.

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## TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

### CRIMINAL JUSTICE SERVICES BOARD

#### Final Regulation

Title of Regulation: **6VAC20-171. Regulations Relating to Private Security Services (amending 6VAC20-171-10, 6VAC20-171-20, 6VAC20-171-30, 6VAC20-171-50, 6VAC20-171-60, 6VAC20-171-70, 6VAC20-171-80, 6VAC20-171-90, 6VAC20-171-100, 6VAC20-171-110, 6VAC20-171-120, 6VAC20-171-130, 6VAC20-171-160,**

6VAC20-171-170, 6VAC20-171-180, 6VAC20-171-190, 6VAC20-171-200, 6VAC20-171-215, 6VAC20-171-220, 6VAC20-171-230, 6VAC20-171-240, 6VAC20-171-250, 6VAC20-171-260, 6VAC20-171-270, 6VAC20-171-280, 6VAC20-171-290, 6VAC20-171-300, 6VAC20-171-305, 6VAC20-171-310, 6VAC20-171-320, 6VAC20-171-350, 6VAC20-171-360, 6VAC20-171-365, 6VAC20-171-370, 6VAC20-171-380, 6VAC20-171-390, 6VAC20-171-400, 6VAC20-171-420, 6VAC20-171-445, 6VAC20-171-460, 6VAC20-171-470, 6VAC20-171-500, 6VAC20-171-550, 6VAC20-171-560; adding 6VAC20-171-71, 6VAC20-171-72, 6VAC20-171-115, 6VAC20-171-116, 6VAC20-171-135, 6VAC20-171-308, 6VAC20-171-375, 6VAC20-171-376, 6VAC20-171-395; repealing 6VAC20-171-245, 6VAC20-171-430, 6VAC20-171-440).

Statutory Authority: § 9.1-141 of the Code of Virginia.

Effective Date: September 1, 2013.

Agency Contact: Lisa McGee, Regulatory Manager, Department of Criminal Justice Services, P.O. Box 1300, Richmond, VA 23218, telephone (804) 371-2419, FAX (804) 786-6344, or email lisa.mcgee@dcjs.virginia.gov.

Summary:

*The regulation establishes a licensure, registration, and certification process for locksmiths pursuant to Chapter 638 of the 2008 Acts of Assembly and for detector canine handlers and detector canine handler examiners pursuant to Chapter 470 of the 2004 Acts of Assembly. The regulation establishes a regulatory fee structure; compulsory minimum entry-level training standards, including firearms training and qualifications; standards of conduct; and administration of the regulatory system.*

*Additionally, amendments (i) rewrite firearms endorsement requirements to include three levels of handgun training and increase training requirements for security officers/couriers to include 10 more hours of firearms training, (ii) increase the hours of training needed for a shotgun endorsement from two to three, (iii) increase the hours needed for renewal of other types of firearms endorsement from two to four, (iv) add new requirements for patrol rifle training, (v) allow businesses that are applying for initial licensure to choose to be licensed for one or two years before they must renew, (vi) add a \$5.00 manual processing fee for applications not submitted through available electronic means, (vii) charge training schools a \$50 fee for each training category rather than the flat \$500 fee they currently pay for approval of training materials and charge instructors \$10 per category for each additional certification category, and (viii) decrease fees for initial compliance agent certification and compliance agent certification renewal.*

*The changes to the regulation since the publication of the proposed stage include (i) retaining the \$10.00 firearms endorsement fee, (ii) removing the requirement for additional training for instructors, (iii) retaining the*

*requirement that businesses and schools maintain a physical address in Virginia for records, (iv) eliminating the proposal for self-audits, and (v) removing all references to the department issuing a photo identification card. New language clarifies the credentialing requirements for detector canine handler examiners and for the approval of online training programs. Amendments were also made for the security officer handgun training, and the training topic, "The Seven Signs of Terrorism," was amended to "Signs of Terrorism." The in-service training requirements for the electronic security registration categories have been combined into one electronic security in-service course that (i) meets the needs of all four categories, thus eliminating duplication in training and allowing for training waivers to be accepted for a 24-month period, (ii) allows for prior firearms training to be considered for requalification purposes and (iii) eliminates language that allows for an individual to not report a conviction if the individual is currently appealing the conviction or if the time to appeal is still active. Other changes since the proposed stage are grammatical in nature.*

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Part I  
Definitions

**6VAC20-171-10. Definitions.**

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Alarm respondent" means a natural person who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

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"Assistant training school director" means a certified instructor designated by a private security training school director to submit training school session notifications and training rosters and perform administrative duties in lieu of the director.

"Board" means the Criminal Justice Services Board or any successor board or agency.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising and contracts.

"Central station dispatcher" means a natural person who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; used to prevent or detect intrusion; or used primarily to summon aid for other emergencies.

"Certification" means a the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, ~~or~~ compliance agents, or certified detector canine handler examiners.

"Certified training school" means a training school that is certified by the department for the specific purpose of training private security services business personnel in at least one category of the compulsory minimum training standards.

"Class" means a block of instruction no less than 50 minutes in length on a particular subject.

"Classroom training" means instruction conducted by an instructor in person to students in an organized manner utilizing a lesson plan.

~~"Combat loading" means tactical loading of shotgun while maintaining coverage of threat area.~~

"Compliance agent" means a natural person who is an owner of, or employed by, a licensed private security services business. The compliance agent shall assure the compliance of the private security services business with all applicable requirements as provided in § 9.1-139 of the Code of Virginia.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious service.

~~"Cruiser safe" means the chamber is empty, the action of the shotgun is closed and locked, and magazine tube is loaded.~~

"Date of hire" means the date any employee of a private security services business or training school performs services regulated or required to be regulated by the department.

"Department" or "DCJS" means the Department of Criminal Justice Services or any successor agency.

"Detector canine" means any dog that detects drugs or explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security services.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Director" means the chief administrative officer of the department.

~~"Electronic roster submittal" means the authority given to the training director or assistant training director of a private security training school, after they have submitted an application and the required nonrefundable fee, to submit a training school roster to the department electronically through the department's online system.~~

"Electronic images" ~~mean~~ means an acceptable method of maintaining required documentation for private security services licensed businesses and certified training schools through the scanning, storage, and maintenance of verifiable electronic copies of original documentation.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security employee" means a natural person who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security equipment" means electronic or mechanical alarm signaling devices, including burglar alarms or holdup alarms or cameras used to detect intrusion, concealment or theft to safeguard and protect persons and property. This shall not include tags, labels, and other devices that are attached or affixed to items offered for sale, library books, and other protected articles as part of an electronic article surveillance and theft detection and deterrence system.

"Electronic security sales representative" means a natural person who sells electronic security equipment on behalf of an electronic security business to the end user.

"Electronic security technician" means a natural person who installs, services, maintains or repairs electronic security equipment.

"Electronic security technician's assistant" means a natural person who works as a laborer under the supervision of the electronic security technician in the course of his normal duties, but who may not make connections to any electronic security equipment.

"Employed" means an employer/employee relationship where the employee is providing work in exchange for compensation and the employer directly controls the employee's conduct and pays taxes on behalf of the employee. The term "employed" shall not be construed to include independent contractors.

"Employee" means a natural person employed by a licensee to perform private security services that are regulated by the department.

"End user" means any person who purchases or leases electronic security equipment for use in that person's home or business.

"Engaging in the business of providing or undertaking to provide private security services" means any person who solicits business within the Commonwealth of Virginia through advertising, business cards, submission of bids, contracting, public notice for private security services, directly or indirectly, or by any other means.

"Entry-level training" means the compulsory initial training for [registered regulated] categories and basic or intermediate firearms training standards adopted by the board for private security services business personnel who are either new registrants or failed to timely complete in-service [training or firearms retraining] within the prescribed time period.

"Firearms endorsement" means a method of regulation that identifies an individual registered as a private security registrant and has successfully completed the annual firearms training and has met the requirements as set forth in this chapter.

"Firearms training verification" means verification of successful completion of ~~either~~ initial or retraining requirements for handgun, ~~or~~ shotgun, ~~or~~ patrol rifle training, ~~or both~~.

"Firm" means a business entity, regardless of method of organization, applying for a an initial or renewal private security services business license or for the renewal or reinstatement of same private security services training school certification.

"Incident" means an event that exceeds the normal extent of one's duties.

"In-service training requirement" means the compulsory in-service training standards adopted by the Criminal Justice Services Board for private security services business personnel.

"Intermediate weapon" means a tool not fundamentally designed to cause deadly force with conventional use. This would exclude all metal ammunition firearms or edged

weapons. These weapons include but are not limited to baton/collapsible baton, chemical irritants, electronic restraining devices, projectiles, and other less-lethal weapons as defined by the department.

"Job-related training" means training specifically related to the daily job functions of a given category of registration or certification as defined in this chapter. Certifiable job related training may include a maximum of one hour of instruction dedicated to the review of regulations.

"Key cutting" means making duplicate keys from an existing key and includes no other locksmith services.

[ "Learning management system" or "LMS" means a software application or web-based technology used to plan, implement, monitor, and assess a specific learning process. ]

"License number" means the official number issued to a private security services business licensed by the department.

"Licensed firm" means a business entity, regardless of method of organization, which holds a valid private security services business license issued by the department.

"Licensee" means a licensed private security services business.

~~"Locksmith security equipment" means mechanical, electrical or electro mechanical locking devices for the control of ingress or egress that do not primarily detect intrusion, concealment and theft.~~

"Locksmith" means any individual that performs locksmith services, or advertises or represents to the general public that the individual is a locksmith even if the specific term locksmith is substituted with any other term by which a reasonable person could construe that the individual possesses special skills relating to locks or locking devices, including use of the words lock technician, lockman, safe technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security technician, or similar descriptions.

"Locksmith services" mean selling; servicing; rebuilding; repairing; rekeying; repining; changing the combination to an electronic or mechanical locking device; programming either keys to a device or the device to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or installing locks or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and vaults; or opening, defeating or bypassing locks or latching mechanisms in a manner other than intended by the manufacturer with or without compensation for the general public or on property not his own nor under his own control or authority.

"Network administrator" means an individual designated by a certified training school that provides online training who serves as the technical contact between the department and the certified training school.

"Official documentation" means personnel records; DD214; copies of business licenses indicating ownership; law-enforcement transcripts; certificates of training completion; a

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signed letter provided directly by a current or previous employer detailing dates of employment and job duties; college transcripts; letters of commendation; private security services registrations, certifications or licenses from other states; and other employment, training, or experience verification documents. A resume is not considered official documentation.

"On duty" means the time during which private security services business personnel receive or are entitled to receive compensation for employment for which a registration or certification is required.

"On-line training" means training approved by the department and offered via the Internet or an Intranet for the purpose of remote access on-demand or [long] distance training that meets all requirements for compulsory minimum training standards.

~~"Open breach loading" means a method of loading or reloading an empty shotgun with the bolt open.~~

"Performance of his duties" means on duty in the context of this chapter.

"Person" means any individual, group of individuals, firm, company, corporation, partnership, business, trust, association, or other legal entity.

"Personal protection specialist" means any natural person who engages in the duties of providing close protection from bodily harm to any person.

"Physical address" means the location of the building that houses a private security services business or training school, or the location where the individual principals of a business reside. A post office box is not a physical address.

"Principal" means any sole proprietor, individual listed as an officer or director with the Virginia State Corporation Commission, board member of the association, or partner of a licensed firm or applicant for licensure.

"Private investigator" means any natural person who engages in the business of, or accepts employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

"Private security services business" means any person engaged in the business of providing, or who undertakes to provide, armored car personnel, security officers, personal protection specialists, private investigators, couriers, security canine handlers, security canine teams, detector canine handlers, detector canine teams, alarm respondents, locksmiths, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians and their assistants to another person under contract, express or implied.

"Private security services business personnel" means each employee of a private security services business who is

employed as an unarmed security officer, armed security officer/courier, armored car personnel, security canine handler, detector canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security employee, electronic security sales representative, electronic security technician or electronic security technician's assistant.

"Private security services instructor" means any natural person certified by the department to provide mandated instruction in private security subjects for a certified private security services training school.

"Private security services registrant" means any qualified individual who has met the requirements under Article 6 (6VAC20-171-120 et seq.) of Part III of this chapter to perform the duties of alarm respondent, locksmith, armored car personnel, central station dispatcher, courier, electronic security sales representative, electronic security technician, electronic security technician's assistant, personal protection specialist, private investigator, security canine handler, detector canine handler, unarmed security officer or armed security officer.

"Private security services training school" means any person certified by the department to provide instruction in private security subjects for the training of private security services business personnel in accordance with this chapter.

"Reciprocity" means the relation existing between Virginia and any other state, commonwealth or [ providence province ] as established by agreements approved by the board.

"Recognition" means the relation of accepting various application requirements between Virginia and any other state, commonwealth or [ providence province ] as established by agreements approved by the board.

"Registration" means a method of regulation which identifies individuals as having met the minimum requirements for a particular registration category as set forth in this chapter.

"Registration category" means any one of the following categories: (i) unarmed security officer and armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, ~~(ix) electronic security technician, or (x) electronic security technician's assistant,~~ (xi) detector canine handler or (xii) locksmith.

"Related field" means any field with training requirements, job duties, and experience similar to those of the private security services field in which the applicant wishes to be licensed, certified, or registered. This includes, but is not limited to, law enforcement and certain categories of the military.

"Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified security

canine handler instructor in accordance with approved department procedures and certification guidelines. "Security canine" shall not include detector dogs.

"Security canine handler" means any natural person who utilizes his security canine in the performance of private security duties.

"Security canine team" means the security canine handler and his security canine performing private security duties.

"Session" means a group of classes comprising the total hours of mandated compulsory minimum training standards in any of the following categories: ~~unarmed security officer, armed security officer/courier, personal protection specialist, armored car personnel, security canine handler, private investigator, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, electronic security technician's assistant or compliance agent of licensure, registration, or certification~~ in accordance with this article and in accordance with §§ 9.1-150.2, 9.1-185.2 and 9.1-186.2 of the Code of Virginia.

"Supervisor" means any natural person who directly or indirectly supervises registered or certified private security services business personnel.

"This chapter" means the Regulations Relating to Private Security Services (6VAC20-171) as part of the Virginia Administrative Code.

"Training certification" means verification of the successful completion of any training requirement established in this chapter.

"Training requirement" means any entry level, in-service, or firearms [ training or ] retraining standard established in this chapter.

"Training school director" means a natural person designated by a principal of a certified private security services training school to assure the compliance of the private security services training school with all applicable requirements as provided in the Code of Virginia and this chapter.

"Unarmed security officer" means a natural person who performs the function of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties.

"Uniform" means any clothing with a badge, patch or lettering which clearly identifies persons to any observer as private security services business personnel, not law-enforcement officers.

Part II  
Application Fees

**6VAC20-171-20. Fees.**

A. Schedule of fees. The fees listed below reflect the costs of handling, issuance, and production associated with

administering and processing applications for licensing, registration, certification and other administrative requests for services relating to private security services.

CATEGORIES	FEEES
<u>CRIMINAL HISTORY RECORDS CHECK</u>	
<u>Fingerprint Processing Application</u>	<u>\$50</u>
Initial business license	<u>\$800</u>
<u>1 Year License</u>	<u>\$550</u>
<u>2 Year License</u>	<u>\$800</u>
Business license renewal ( <u>2 Year License</u> )	<u>\$500</u>
Business license category fee	<u>\$50</u>
<u>CERTIFICATIONS</u>	
Initial compliance agent certification ( <del>includes training</del> )	<del>\$100</del> <u>\$50</u>
Compliance agent certification renewal ( <del>includes training</del> )	<del>\$50</del> <u>\$25</u>
<del>Initial registration</del>	<del>\$25</del>
<del>Registration renewal</del>	<del>\$20</del>
<del>Firearms endorsement (annual)</del>	<del>\$10</del>
Initial training school	<u>\$800</u>
Training school renewal	<u>\$500</u>
<u>Training school category fee</u>	<u>\$50</u>
<del>Training school electronic roster submittal authorization</del>	<del>\$500</del>
Initial instructor certification	<u>\$100</u> <u>\$50</u>
Instructor certification renewal	<u>\$50</u> <u>\$25</u>
<u>Instructor certification category fee</u>	<u>\$10</u>
<u>Initial Detector Canine Handler Examiner certification</u>	<u>\$50</u>
<u>Detector Canine Handler Examiner Certification renewal</u>	<u>\$25</u>
<del>Initial certification</del>	<del>\$25</del>
<del>Certification renewal</del>	<del>\$20</del>
<u>REGISTRATION</u>	
<u>Initial registration</u>	<u>\$25</u>
<u>Registration renewal</u>	<u>\$20</u>
<u>Additional registration category form</u>	<u>\$20</u>

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Replacement [ <del>photo identification registration card</del> ]	\$20
<u>TRAINING RELATED</u>	
Firearm Endorsement	<del>\$30</del> [ <del>\$15</del> \$10 ]
Application for <u>Entry-level partial-training exemption</u>	\$25
<u>In Service Training Alternative Credit Evaluation</u>	\$25
<u>Regulatory Compliance entry-level training</u>	\$75
<u>Regulatory Compliance In-service training</u>	\$50
Fingerprint card processing	\$50
<del>Additional registration category form</del>	\$20
<del>Replacement photo identification letter</del>	\$15
Training completion roster form	\$30
<del>General instructor development course</del>	\$300
<del>General instructor in service training</del>	\$50
<del>Firearms instructor development course</del>	\$300
<del>Firearms instructor in service training</del>	\$50
Technical assistant training	\$50

**B. Reinstatement fee.**

1. The department shall collect a reinstatement fee for registration, license, or certification renewal applications not received on or before the expiration date of the expiring registration, license, or certification pursuant to 6VAC 20-171-180.
2. The reinstatement fee shall be 50% above and beyond the renewal fee of the registration, license, certification, or any other credential issued by the department wherein a fee is established and renewal is required.

**C. Dishonor of fee payment due to ~~non-sufficient~~ insufficient funds.**

1. The department may suspend the registration, license, certification, or authority it has granted any person, ~~licensee or registrant~~ who submits a check or similar instrument for payment of a fee required by statute or regulation which is not honored by the financial institution upon which the check or similar instrument is drawn.
2. The suspension shall become effective upon receipt of written notice of the dishonored payment. Upon notification of the suspension, the person, registrant or licensee may request that the suspended registration,

license, certification, or authority be reinstated, provided payment of the dishonored amount plus any penalties or fees required under the statute or regulation ~~accompany~~ accompanies the request. Suspension under this provision shall be exempt from the Administrative Process Act.

D. Manual processing service fee. The department shall collect a \$20 \$5.00 service fee for any applications under this chapter that are submitted to the department by other means than the available electronic methods established by the department.

Part III

Applications Procedures and Requirements

Article 1

Criminal History Records Search

**6VAC20-171-30. Fingerprint processing.**

A. On or before the first date of hire, each person applying for licensure as a private security services business, including principals, supervisors, and electronic security employees; certification as a private security services training school; certification as a compliance agent, detector canine handler examiner or instructor; or a private security registration ~~or private security certification~~ shall submit to the department:

1. ~~Two~~ One completed fingerprint ~~cards~~ card provided by the department or another electronic method approved by the department;
2. A fingerprint processing application;
3. The applicable, nonrefundable fee; and
4. All criminal history conviction information on a form provided by the department.

B. The department shall submit those fingerprints to the Virginia State Police for the purpose of conducting a Virginia Criminal History Records search and a National Criminal Records search to determine whether the individual or individuals have a record of conviction.

C. Fingerprint cards found to be unclassifiable will ~~be returned to the applicant. Action on the application will be suspended~~ suspend all action on the application pending the ~~resubmittal~~ resubmission of a classifiable fingerprint ~~cards~~ card. The applicant shall be so notified in writing and ~~shall~~ must submit a new fingerprint cards and the applicable, nonrefundable fee to the department card within 30 days of notification before the processing of his application shall resume. ~~However, no such fee may be required if the rejected fingerprint cards are included and attached to the new fingerprint cards when resubmitted and the department is not assessed additional processing fees. If a fingerprint card is not submitted within the 30 days, the initial fingerprint application process will be required to include applicable application fees.~~

D. If the applicant is denied by DCJS, the department will notify the applicant by letter regarding the reasons for the

denial. The compliance agent will also be notified in writing by DCJS that the applicant has been denied.

E. Fingerprint applications will be ~~only~~ active for 120 days from the date of submittal. Application for licenses, registrations, and certifications must be submitted within that 120-day period or initial fingerprint submittal will be required.

Article 2

Private Security Services Business License

**6VAC20-171-50. Initial business license application.**

A. Prior to the issuance of a business license, the applicant shall meet or exceed the requirements of licensing and application submittal to the department as set forth in this section.

B. Each person seeking a license as a private security services business shall file a completed application provided by the department including:

1. For each principal and supervisor of the applying business, their fingerprints pursuant to 6VAC20-171-30; for each electronic security employee of an electronic security services business, their fingerprints pursuant to 6VAC20-171-30;

2. Documentation verifying that the applicant has secured a surety bond in the amount of \$100,000 executed by a surety company authorized to do business in Virginia, or a certificate of insurance reflecting the department as a certificate holder, showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 per individual occurrence and \$300,000 general aggregate issued by an insurance company authorized to do business in Virginia;

3. For each nonresident applicant for a license, on a form provided by the department, a completed irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth;

4. For each applicant for a license as a private security services business except sole proprietor or partnership, ~~on a form provided by the department shall submit on the license application,~~ the identification number issued by the Virginia State Corporation Commission for verification that the entity is authorized to conduct business in the Commonwealth;

[ 5. A physical address in Virginia where records required to be maintained by the Code of Virginia and this chapter are kept and available for inspection by the department. A post office box is not a physical address;

6. ~~5. ]~~ On the license application, designation of at least one individual as compliance agent [ ~~who is not designated as compliance agent for any other licensee, and ]~~ who is certified or eligible for certification pursuant to 6VAC20-171-70;

[ 7. ~~6.~~ ] The applicable, nonrefundable license application fee; and

[ 8. ~~7.~~ ] Designation on the license application of the type of private security business license the applicant is seeking. The initial business license fee includes one category. A separate fee will be charged for each additional category. The separate categories are identified as follows: security officers/couriers (armed and unarmed), private investigators, electronic security personnel, armored car personnel, personal protection specialists, locksmiths, detector canine handlers and security canine handlers. Alarm respondents crossover into both the security officer and electronic security category; therefore, if an applicant is licensed in either of these categories, he can provide these services without ~~purchasing~~ an additional category fee.

C. Upon completion of the initial license application requirements, the department may issue an initial license for a period not to exceed 24 months.

D. The department may issue a letter of temporary licensure to businesses seeking licensure under § 9.1-139 of the Code of Virginia for not more than 120 days while awaiting the results of the state and national fingerprint search conducted on the principals and compliance agent of the business, provided the applicant has met the necessary conditions and requirements.

E. A new license is required whenever there is any change in the ownership or type of organization of the licensed entity that results in the creation of a new legal entity. Such changes include but are not limited to:

1. Death of a sole proprietor;

2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and

3. Formation or dissolution of a corporation, a limited liability company, or an association or any other business entity recognized under the laws of the Commonwealth of Virginia.

F. Each license shall be issued to the legal business entity named on the application, whether it ~~be~~ is a sole proprietorship, partnership, corporation, or other legal entity, and shall be valid only for the legal entity named on the license. No license shall be assigned or otherwise transferred to another legal entity, ~~with the exception of a sole proprietorship or partnership that incorporates to form a new corporate entity where the initial licensee remains as a principal in the newly formed corporation. This exception shall not apply to any existing corporation that purchases the business or assets of an existing sole proprietorship.~~

G. Each licensee shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.

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H. Each licensee shall be a United States citizen or legal resident alien of the United States.

## **6VAC20-171-60. Renewal [ business ] license application.**

A. Applications for license renewal should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address of the licensee. However, if a renewal notification is not received by the licensee, it is the responsibility of the licensee to ensure renewal requirements are filed with the department. License renewal applications must be received by the department and all license requirements must be completed prior to the expiration date or shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees. Outstanding fees or monetary penalties owed to DCJS must be paid prior to issuance of said renewal.

B. Licenses will be renewed for a period not to exceed 24 months.

C. The department may renew a license when the following are received by the department:

1. A properly completed renewal application;
2. Documentation verifying that the applicant has secured and maintained a surety bond in the amount of \$100,000 executed by a surety company authorized to do business in Virginia, or a certificate of insurance reflecting the department as a certificate holder, showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 per individual occurrence and \$300,000 general aggregate issued by an insurance company authorized to do business in Virginia;
3. Fingerprint records for any new or additional principals submitted to the department within 30 days of their hire date pursuant to 6VAC20-171-30 provided, however, that any change in the ownership or type of organization of the licensed entity has not resulted in the creation of a new legal entity pursuant to 6VAC-20-171-50;
4. On the application, designation of at least one compliance agent who has satisfactorily completed all applicable training requirements;
5. The applicable, nonrefundable license renewal fee and applicable category of service fees; [ and ]
6. On the first day of employment, each new and additional supervisor's fingerprints submitted to the department pursuant to § 9.1-139 H of the Code of Virginia [ ~~and~~
7. ~~A completed business license self audit form issued by the department.~~ ]

D. ~~Each principal and compliance agent listed on the business applying for a license renewal application shall be in good standing in every jurisdiction where licensed, registered or certified in a private security services or related field. This subsection shall not apply to any probationary periods during~~

which the individual is eligible to operate under the license, registration or certification.

E. Any renewal application received after the expiration date of a license shall be subject to the requirements set forth by the reinstatement provisions of this chapter.

F. On the renewal application the licensee must designate the type of private security business license he wishes to renew. The fee will be based upon the category or categories selected on the renewal application pursuant to 6VAC20-171-20.

## Article 3

### Compliance Agent Certification

## **6VAC20-171-70. Compliance agent ~~training and~~ certification requirements.**

A. Each person applying for certification as compliance agent shall meet the minimum requirements for eligibility:

1. Be a minimum of 18 years of age;
2. Have (i) three years of managerial or supervisory experience in a private security services business, a federal, state, or local law-enforcement agency, or in a related field or (ii) five years experience in a private security services business, with a federal, state or local law-enforcement agency, or in a related field; and
3. Be a United States citizen or legal resident alien of the United States.

B. Each person applying for certification as compliance agent shall file with the department:

1. A properly completed application provided by the department;
2. Fingerprint ~~cards~~ card pursuant to 6VAC20-171-30;
3. Official documentation verifying that the individual has (i) three years of managerial or supervisory experience in a private security services business, a federal, state, or local law-enforcement agency, or in a related field or (ii) five years experience in a private security services business, with a federal, state or local law-enforcement agency, or in a related field; and
4. The applicable, nonrefundable application fee.

~~C. Following review of all application requirements, the department shall assign the applicant to an entry level compliance agent training session provided by the department, at which the applicant must successfully complete the applicable entry level compliance agent training requirements pursuant to this chapter and achieve a passing score of 80% on the compliance agent examination. The department may issue a certification for a period not to exceed 24 months when the following are received by the department:~~

1. A properly completed application provided by the department;
2. The applicable, nonrefundable certification fee;

3. Verification of eligibility pursuant to § 9.1-139 A of the Code of Virginia; and

4. Verification of satisfactory completion of department regulatory compliance entry-level training requirements pursuant to 6VAC20-171-72 [ of this chapter ].

~~D. Following completion of the entry level training requirements, the compliance agent must complete in-service training pursuant to the compulsory minimum training standards set forth by this chapter.~~

~~E. D.~~ Each compliance agent shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.

**6VAC20-171-71. Compliance agent certification renewal requirements.**

A. Applications for certification renewal should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address or email address provided by the certified compliance agent. However, if a renewal notification is not received by the compliance agent, it is the responsibility of the compliance agent to ensure renewal requirements are filed with the department. Certification renewal applications received by the department after the expiration date shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees.

B. Each person applying for compliance agent certification renewal shall meet the minimum requirements for eligibility as follows:

1. Successfully apply on an application provided by the department, and complete the in-service regulatory compliance agent classroom training session provided by the department, or successfully complete an approved online in-service training session pursuant to 6VAC20-171-72. Training must be completed within the 12 months immediately preceding the expiration date of the current certification pursuant to the certification training standards in 6VAC20-171-72; and
2. Be in good standing in every jurisdiction where licensed, registered, or certified in private security services or related field. This subdivision shall not apply to any probationary periods during which the individual is eligible to operate under the license, registration, or certification.

C. The department may renew a certification for a period not to exceed 24 months.

D. The department may renew a certification when the following are received by the department:

1. A properly completed renewal application provided by the department;
2. The applicable, nonrefundable certification renewal fee; and

3. Verification of satisfactory completion of department regulatory compliance agent in-service training pursuant to 6VAC20-171-72.

E. Any renewal application received after the expiration date of a certification shall be subject to the requirements set forth by the reinstatement provisions of this chapter.

**6VAC20-171-72. Compliance agent regulatory compliance training requirements.**

A. Each eligible person applying to attend a regulatory compliance entry-level or in-service training session provided by the department shall file with the department:

1. A properly completed application provided by the department; and
2. The applicable, nonrefundable application fee.

Upon receipt of the training enrollment application the department will assign the applicant to a training session provided by the department. Applicants for initial certification as a compliance agent must achieve a minimum passing score of 80% on the entry-level regulatory compliance training examination.

B. Department entry-level regulatory compliance training must be completed within 12 months of approval of application for an initial compliance agent certification.

C. Each person certified by the department to act as a compliance agent shall complete the department in-service regulatory compliance training within the last 12-month period of certification.

Article 4

Private Security Services Training School Certification

**6VAC20-171-80. Initial training school application.**

A. Prior to the issuance of a training school certification, the applicant shall meet or exceed the requirements of certification and application submittal to the department as set forth in this section.

B. Each person seeking certification as a private security services training school shall file a completed application provided by the department to include:

1. For each principal of the applying training school, their fingerprints pursuant to 6VAC20-171-30;
2. Documentation verifying that the applicant has secured a surety bond in the amount of \$100,000 executed by a surety company authorized to do business in Virginia, or a certificate of insurance reflecting the department as a certificate holder, showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 per individual occurrence and \$300,000 general aggregate issued by an insurance company authorized to do business in Virginia;
3. For each nonresident applicant for a training school, on a form provided by the department, a completed irrevocable consent for the department to serve as service agent for all actions filed in any court in this Commonwealth;

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4. For each applicant for certification as a private security services training school except sole proprietor and partnership, on a ~~form~~ certification application provided by the department, the identification number issued by the Virginia State Corporation Commission for verification that the entity is authorized to conduct business in the Commonwealth;

[ 5. A physical location in Virginia where records required to be maintained by the Code of Virginia and this chapter are kept and available for inspection by the department. A post office box is not a physical location;

6. ~~5.~~ ] On the training school certification application, designation of at least one individual as training director who is not designated as training director for any other training school, and who is certified as an instructor pursuant to Article 5 (6VAC20-171-100 et seq.) of this part. A maximum of four individuals may be designated as an assistant training school director;

[ 7. ~~6.~~ ] A copy of the curriculum in course outline format for each category of training to be offered, including the hours of instruction with initial and in-service courses on separate documents;

[ 8. ~~7.~~ ] A copy of the training school regulations;

9. ~~8.~~ A copy of the training completion certificate to be used by the training school;

~~10.~~ [ 9. ~~8.~~ ] A copy of the range regulations to include the assigned DCJS range identification number if firearms training will be offered; ~~and~~

~~11.~~ ~~10.~~ The applicable, nonrefundable training school certification application fee.

~~11.~~ [ 9. ~~10.~~ ] On the certification application, selection of the category of training the applicant is seeking to provide. The initial training school certification application fee includes one category. A separate fee will be charged for each additional category of training. The separate categories are identified as follows: (i) security officers/couriers/alarm respondent (armed and unarmed) to include arrest authority and firearms training, (ii) private investigators, (iii) locksmiths, electronic security personnel to include central station dispatchers, (iv) armored car personnel, (v) personal protection specialists, (vi) detector canine handlers, security canine handlers, (vii) special conservators of the peace pursuant to § 9.1-150 of the Code of Virginia, and (viii) bail bondsmen pursuant to § 9.1-185 of the Code of Virginia, bail enforcement agents pursuant to § 9.1-186 of the Code of Virginia, and (ix) firearms;

[ ~~10.~~ 11. ] The applicable, nonrefundable category fee; and

[ ~~11.~~ 12. ] The applicable, nonrefundable training school certification application fee.

C. When the department has received and processed a completed application and accompanying material, the department ~~shall~~ may inspect the training facilities ~~to ensure~~

~~conformity with department policy~~, including an inspection of the firearms range, if applicable, to ensure conformity with the minimum requirements set forth by this chapter.

D. Upon completion of the initial training school application requirements, the department may issue an initial certification for a period not to exceed 24 months.

E. The department may issue a letter of temporary certification to training schools for not more than 120 days while awaiting the results of the state and national fingerprint search conducted on the principals and training director of the business, provided the applicant has met the necessary conditions and requirements.

F. A new certification is required whenever there is any change in the ownership or type of organization of the certified entity that results in the creation of a new legal entity. Such changes include but are not limited to:

1. Death of a sole proprietor;

2. Death or withdrawal of a general partner in a general partnership or the managing partner in a limited partnership; and

3. Formation or dissolution of a corporation, a limited liability company, or an association or any other business entity recognized under the laws of the Commonwealth of Virginia.

G. Each certification shall be issued to the legal entity named on the application, whether it ~~be~~ is a sole proprietorship, partnership, corporation, or other legal entity, and shall be valid only for the legal entity named on the certification. No certification shall be assigned or otherwise transferred to another legal entity, ~~with the exception of a sole proprietorship or partnership that incorporates to form a new corporate entity where the initial licensee remains as a principal in the newly formed corporation. This exception shall not apply to any existing corporation that purchases the training school or assets of an existing sole proprietorship.~~

H. Each certified training school shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.

## **6VAC20-171-90. Renewal training school application.**

A. Applications for certification renewal should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address ~~of~~ or email address provided by the certified training school. However, if a renewal notification is not received by the training school, it is the responsibility of the training school to ensure renewal requirements are filed with the department. Certification renewal applications received by the department after the expiration date shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees. Outstanding fees or monetary penalties owed to DCJS must be paid prior to issuance of said renewal.

B. Upon completion of the renewal training school application requirements, the department may issue a renewal certification for a period not to exceed 24 months.

C. The department may renew a certification when the following are received by the department:

1. A properly completed renewal application;
2. Documentation verifying that the applicant has secured and maintained a surety bond in the amount of \$100,000 executed by a surety company authorized to do business in Virginia, or a certificate of insurance reflecting the department as a certificate holder, showing a policy of comprehensive general liability insurance with a minimum coverage of \$100,000 per individual occurrence and \$300,000 general aggregate issued by an insurance company authorized to do business in Virginia;
3. On the application, designation of at least one certified instructor as training director who has satisfactorily completed all applicable training requirements; ~~and~~
4. Fingerprints for each new and additional principal pursuant to § 9.1-139 H of the Code of Virginia; ~~;~~
5. The applicable, nonrefundable certification renewal fee-and category fees; [ and ]
6. Any documentation required pursuant to 6VAC20-171-80 for any new categories of training [ ~~and~~
7. A completed training school certification self audit form issued by the department. ]

D. Each ~~principal and instructor listed on the license~~ training school applying for a certification renewal application shall be in good standing in every jurisdiction where licensed, registered or certified in private security services or related field. This subsection shall not apply to any probationary periods during which the individual is eligible to operate under the license, registration or certification.

E. Any renewal application received after the expiration date of a certification shall be subject to the requirements set forth by the reinstatement provisions ~~of this chapter~~ pursuant to 6VAC20-171-180.

Article 5

Private Security Services Instructor Certification

**6VAC20-171-100. Initial instructor application.**

A. Each person applying for certification as an instructor shall meet the following minimum requirements for eligibility:

1. Be a minimum of 18 years of age;
2. Have a high school diploma or equivalent (GED);
3. Have either (i) successfully completed a DCJS instructor development course within the three years immediately preceding the date of the application or submitted a waiver application for an instructor development course that meets or exceeds standards established by the department; or (ii) successfully completed an approved DCJS instructor

development program longer than three years prior to the date of application, and provided documented instruction during the three years immediately preceding or provided documented instruction in a related field at an institution of higher learning;

4. Have a minimum of (i) three years management or supervisory experience with a private security services business or with any federal, military police, state, county or municipal law-enforcement agency, or in a related field; or (ii) five years general experience in a private security services business, with a federal, state or local law-enforcement agency, or in a related field; or (iii) one year experience as an instructor or teacher at an accredited educational institution or agency in the subject matter for which certification is requested, or in a related field; ~~and~~

5. Have previous training and a minimum of two years work experience for those subjects in which certification is requested; and

~~5.~~ 6. Be a United ~~State~~ States citizen or legal resident alien of the United States.

B. Each person applying for certification as an instructor shall file with the department:

1. A properly completed application provided by the department;
2. Fingerprint ~~cards~~ card pursuant to 6VAC20-171-30;
3. Official documentation verifying that the applicant meets the minimum eligibility requirements pursuant to this section;
4. ~~Official documentation verifying previous instructor experience, training, work experience and education for those subjects in which certification is requested. The department will evaluate qualifications based upon the justification provided;~~

4. On the certification application, selection of the category of training the applicant is seeking to provide. The initial instructor certification fee includes one category. A separate fee will be charged for each additional category of training. The separate categories are identified as follows: (i) security officers/couriers/alarm respondent (armed and unarmed) to include arrest authority, (ii) private investigators, (iii) locksmiths, electronic security personnel to include central station dispatchers, (iv) armored car personnel, (v) personal protection specialists, (vi) detector canine handlers, security canine handlers, (vii) special conservators of the peace pursuant to § 9.1-150 of the Code of Virginia, (viii) bail bondsmen pursuant to § 9.1-185 of the Code of Virginia, bail enforcement agents pursuant to § 9.1-186 of the Code of Virginia, and (ix) firearms;

5. ~~4.~~ The applicable, nonrefundable instructor certification application fee and category fee or fees if applicable; and

6. ~~5.~~ Evidence of status as a United States citizen or legal resident alien of the United States.

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~~[ C. Following review of all application requirements, the department shall verify eligibility and authorize the applicant to submit a regulatory compliance training enrollment application for an entry level instructor regulatory compliance classroom training session provided by the department, or approve the applicant for taking the approved online training session pursuant to 6VAC20-171-111, at which the applicant must successfully complete the applicable entry level regulatory compliance training requirements pursuant to this chapter and achieve a passing score of 80% on the regulatory compliance examination. ]~~

[ C. ~~D.~~ ] In addition to the instructor qualification requirements described in subsections A [ and B ~~through C~~ ] of this section, each applicant for certification as a firearms instructor shall submit to the department:

1. Official documentation that the applicant has successfully completed a DCJS firearms instructor school or a waiver application with supporting documentation demonstrating completion of a firearms instructor school specifically designed for law-enforcement or private security personnel that meets or exceeds standards established by the department within the three years immediately preceding the date of the instructor application.

2. Official documentation in the form of a signed, dated range sheet identifying the type, caliber, and action, along with the qualification score and course of fire that the applicant has successfully qualified, with a minimum range qualification of 85%, with each of the following:

- a. A revolver;
- b. A semi-automatic handgun; and
- c. A shotgun.

3. Firearms instructors applying to provide patrol rifle training in accordance with 6VAC20-171-395 must submit official documentation in the form of a signed, dated range sheet that the applicant has successfully qualified, with a minimum range qualification of 85%, with a patrol rifle.

4. Range qualifications must have been completed within the 12 months immediately preceding the instructor application date and have been completed at a Virginia criminal justice agency, training academy, correctional facility, or a department approved range utilized by a certified private security training school. The qualifications must be documented by another instructor certified as a law-enforcement firearms instructor or private security services firearms instructor.

3. ~~5.~~ The firearms instructor training must have been completed within the three years immediately preceding the date of the instructor application; or in the event that the school completion occurred prior to three years, the applicant shall have provided firearms instruction during the three years immediately preceding the date of the instructor application.

[ D. ~~E.~~ ] Upon completion of the initial instructor application requirements, the department may issue an initial certification for a period not to exceed 24 months.

[ E. ~~F.~~ ] The department may issue a letter of temporary certification to instructors for not more than 120 days while awaiting the results of the state and national fingerprint search provided the applicant has met the necessary conditions and requirements.

[ F. ~~G.~~ ] Each certification shall be issued to the individual named on the application and shall be valid only for use by that individual. No certification shall be assigned or otherwise transferred to another individual.

[ G. ~~H.~~ ] Each instructor shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.

## **6VAC20-171-110. Renewal instructor application.**

A. Applications for certification renewal should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address ~~of~~ or email address provided by the certified instructor. However, if a renewal notification is not received by the instructor, it is the responsibility of the instructor to ensure renewal requirements are filed with the department. Certification renewal applications received by the department after the expiration date shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees.

B. Each person applying for instructor certification renewal shall meet the minimum requirements for eligibility as follows:

~~[ 1. Successfully complete the in service ] training [ regulatory compliance classroom or online training session provided by the department ]; or successfully complete an approved online in service training session pursuant to 6VAC20-171-11 [ within the 12 months immediately preceding the expiration date of the current certification ] pursuant to the compulsory minimum training standards in 6VAC20-171-360; and;~~

[ ~~2.~~ 1. ] Successfully complete a minimum of 4 hours of continuing education in instructor development. Training must be completed within the 12 months immediately preceding the expiration date of the current certification; and

~~3. Successfully complete a minimum of 2 hours of professional development for topics related to each category of instructor certification during the certification period; and~~

~~2.~~ ~~4.~~ [ ~~3.~~ 2. ] Be in good standing in every jurisdiction where licensed, registered or certified in a private security services or related field. This subdivision shall not apply to any probationary periods during which the individual is

eligible to operate under the license, registration or certification.

C. The department may renew a certification for a period not to exceed 24 months.

D. The department may renew a certification when the following are received by the department:

1. A properly completed renewal application provided by the department; ~~and~~
2. The ~~applicable~~, nonrefundable certification renewal fee- and applicable category fees;
3. Any documentation required pursuant to 6VAC20-171-100 for any new categories of training;
- ~~3. [ 4. Verification of satisfactory completion of regulatory compliance in service training provided by the department; ]~~
- ~~4. [ 5. 4. ] Verification of satisfactory completion of instructor development continuing education requirements;~~
- ~~5. Verification of 2 hours of professional development training in each category of certification taken during the certification period; and~~

[ 6. 5. ] For firearms instructors, official documentation in the form of a signed, dated range sheet identifying the type, caliber, and action, along with the qualification score and course of fire, with a minimum range qualification of 85%, with each of the following:

- a. A revolver;
- b. A semi-automatic handgun; and
- c. A shotgun.

[ 7. 6. ] Firearms instructors applying to provide patrol rifle training in accordance with 6VAC20-171-395 must submit official documentation in the form of a signed, dated range sheet that the applicant has successfully qualified, with a minimum range qualification of 85%, with a patrol rifle.

[ 8. 7. ] Range qualifications must have been completed within the 12 months immediately preceding the instructor application date and have been completed at a Virginia criminal justice agency, training academy, correctional facility, or a department approved range utilized by a certified private security training school. The qualifications must be documented by another instructor certified as a law-enforcement firearms instructor or private security services firearms instructor.

E. Any instructor renewal application received by the department shall meet all renewal requirements prior to the expiration date of a certification or shall be subject to the requirements set forth by the reinstatement provisions of this chapter pursuant to 6VAC20-171-180.

~~[ **6VAC20-171-111. Instructor regulatory compliance training requirements.**~~

~~A. Each eligible person applying to attend a regulatory compliance entry level or in service training session provided by the department shall file with the department:~~

- ~~1. A properly completed application provided by the department; and~~
- ~~2. The applicable, nonrefundable application fee.~~

~~Upon receipt of the training enrollment application the department will assign the applicant to a regulatory compliance training session provided by the department. Applicants for initial certification as an instructor must achieve a minimum passing score of 80% on the entry level regulatory compliance examination.~~

~~B. Department entry level regulatory compliance training must be completed within 12 months of approval of application for an initial instructor certification. ]~~

**6VAC20-171-115. Initial detector canine handler examiner certification.**

A. Each person applying for certification as a detector canine handler examiner shall meet the following minimum requirements for eligibility:

1. Be a minimum of 18 years of age;
2. Have a high school diploma or equivalent (GED);
3. Have a minimum of five years experience as a detector canine handler and a minimum of two years experience as a detector canine trainer [ within the previous 10 years prior to application with the department ];
4. Have an active certification as a detector canine handler examiner or equivalent credential from a department approved national organization, unit of the United States military, or other formal entity; [ ~~or be sponsored by a certified DCIS private security services detector canine handler examiner; and ]~~

~~[ 5. Successfully pass a written examination and performance evaluations according to department guidelines; and~~

~~6. 5. ] Be a United States citizen or legal resident alien of the United States.~~

B. Each person applying for certification as a detector canine handler examiner shall file with the department:

1. A properly completed application provided by the department;
2. Fingerprint card pursuant to 6VAC20-171-30;
3. Official documentation according to subdivisions A 3 and 4 of this section; and
4. The applicable, nonrefundable application fee.

~~[ C. Following review of all application requirements, the department shall verify eligibility and authorize the applicant to submit a regulatory compliance training enrollment application pursuant to 6VAC20-171-117 for an entry level~~

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~~classroom training session provided by the department, or approve the applicant for taking the approved online training session pursuant to 6VAC20-171-117, at which the applicant must successfully complete the applicable entry level regulatory compliance training requirements pursuant to this chapter and achieve a passing score of 80% on the examination.~~

~~D. C.] Upon completion of the initial detector canine handler examiner application requirements, the department may issue an initial certification for a period not to exceed 24 months.~~

~~[E. D.] The department may issue a letter of temporary certification to detector canine handler examiners for not more than 120 days while awaiting the results of the state and national fingerprint search provided the applicant has met the necessary conditions and requirements.~~

~~[F. E.] Each certification shall be issued to the individual named on the application and shall be valid only for use by that individual. No certification shall be assigned or otherwise transferred to another individual.~~

~~[G. F.] Each detector canine handler examiner shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.~~

## **6VAC20-171-116. Renewal detector canine handler examiner certification.**

~~A. Applications for certification renewal should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address of the certified examiner. However, if a renewal notification is not received by the examiner, it is the responsibility of the examiner to ensure renewal requirements are filed with the department. Certification renewal applications received by the department after the expiration date shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees.~~

~~B. Each person applying for examiner certification renewal shall meet the minimum requirements for eligibility as follows:~~

~~1. Have maintained certification as a detector canine handler examiner or equivalent credential according to 6VAC20-171-115 A 4 ~~or~~ and demonstrate the completion of a minimum of 16 hours of continuing education during the previous certification period; [ and~~

~~2. Successfully complete the in service regulatory compliance classroom or online training session provided by the department within the 12 months immediately preceding the expiration date of the current certification; and~~

~~3. 2.] Be in good standing in every jurisdiction where licensed, registered, or certified [ in private security services or a related field ]. This subdivision shall not apply to any probationary periods during which the~~

~~individual is eligible to operate under the license, registration, or certification.~~

~~C. The department may renew a certification for a period not to exceed 24 months.~~

~~D. The department may renew a certification when the following are received by the department:~~

~~1. A properly completed renewal application provided by the department;~~

~~2. The applicable, nonrefundable certification renewal fee; and~~

~~3. Official documentation according to subsection B 4 of this section.~~

~~E. Any examiner renewal application received by the department shall meet all renewal requirements prior to the expiration date of a certification or shall be subject to the requirements set forth by the reinstatement provisions of this chapter.~~

## **[ 6VAC20-171-117. Detector canine handler examiner regulatory compliance training enrollment.**

~~A. Each eligible person applying to attend a regulatory compliance entry level [ or in service ] training session provided by the department shall file with the department:~~

~~1. A properly completed application provided by the department; and~~

~~2. The applicable, nonrefundable application fee.~~

~~Upon receipt of the training enrollment application the department will assign the applicant to a regulatory compliance examiner training session provided by the department, at which the applicant must successfully complete the applicable training requirements. Applicants for initial certification as an examiner must achieve a minimum passing score of 80% on the entry level examination.~~

~~B. Department entry level regulatory compliance training must be completed within 12 months of approval of application for an initial examiner certification. ]~~

## Article 6

### Private Security Services Registration

## **6VAC20-171-120. Initial registration application.**

A. Individuals required to be registered, pursuant to § 9.1-139 C of the Code of Virginia, in the categories of armored car personnel, courier, unarmed security officer, armed security officer, security canine handler, explosives detector canine handler, narcotics detector canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, or electronic security technician's assistant shall meet all registration requirements in this section. Prior to the issuance of a registration, the applicant shall meet or exceed the requirements of registration and application submittal to the department as set forth in this section. Individuals who carry or have access to a firearm while on duty must have a valid

registration with a firearm endorsement pursuant to 6VAC20-171-140. If carrying a handgun concealed, the individual must also have a valid concealed handgun permit and the written permission of his employer pursuant to § 18.2-308 of the Code of Virginia.

B. Each person applying for registration shall meet the minimum requirements for eligibility as follows:

1. Be a minimum of 18 years of age;
2. Successfully complete all initial training requirements for each registration category requested, including firearms endorsement if applicable, ~~requested~~ pursuant to the compulsory minimum training standards in ~~6VAC20-171-360~~ 6VAC20-171-350; [ and ]
3. Be a United States citizen or legal resident alien of the United States [ ~~;~~ and
4. ~~Have a digital photo taken by a certified private security services training school or other site approved by the department.~~ ]

C. Each person applying for registration shall file with the department:

1. A properly completed application provided by the department;
  2. On the application, his mailing address;
  3. Fingerprint ~~cards~~ card pursuant to 6VAC20-171-30; and
  4. ~~A photo taken by a certified private security services training school or other site approved by the department;~~ and
- ~~§. 4.~~ The applicable, nonrefundable application fee.

D. Each person seeking or required to seek registration as unarmed security officer, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, or electronic security technician's assistant may be employed for a period not to exceed 90 consecutive days in any categories listed above while completing the compulsory minimum training standards, provided:

1. ~~Fingerprint cards~~ Fingerprints have been submitted pursuant to 6VAC20-171-30;
2. The individual is not employed in excess of 120 days without having been issued a registration from the department; and
3. The individual did not fail to timely complete the required training with previous employer(s).

E. Upon completion of the initial registration application requirements, the department may issue an initial registration ~~letter~~ for a period not to exceed 24 months. ~~This registration letter shall be submitted by the applicant to the Virginia Department of Motor Vehicles or other specified entity for a state issued photo identification card.~~

F. The department may issue a letter of temporary registration valid for not more than 120 days while awaiting

the results of the state and national fingerprint search, provided the applicant has met the necessary conditions and requirements.

G. Each registration shall be issued to the individual named on the application and shall be valid only for use by that individual. No registration shall be assigned or otherwise transferred to another individual.

H. Each registered individual shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia and this chapter.

**6VAC20-171-130. Renewal registration application.**

A. Applications for registration renewal shall meet all renewal requirements and should be received by the department at least 30 days prior to expiration. The department will provide a renewal notification to the last known mailing address ~~of~~ or email address provided by the registered individual. However, if a renewal notification is not received by the individual, it is the responsibility of the individual to ensure renewal requirements are filed with the department. Registration renewal applications received by the department after the expiration date shall be subject to all applicable, nonrefundable renewal fees plus reinstatement fees.

B. Each person applying for registration renewal shall meet the minimum requirements for eligibility as follows:

1. Successfully complete the in-service training, and firearms retraining if applicable, pursuant to the compulsory minimum training standards set forth by this chapter; [ and ]
2. Be in good standing in every jurisdiction where licensed, registered or certified. This subdivision shall not apply to any probationary periods during which the individual is eligible to operate under the license, registration or certification [ ~~;~~ and
3. ~~Upon the request of the department, have a new digital photo taken by a certified private security services training school or other site approved by the department.~~ ]

C. The department may renew a registration when the following are received by the department:

1. A properly completed renewal application provided by the department;
2. For individuals applying for renewal with the category of armored car personnel, fingerprint ~~cards~~ card submitted pursuant to 6VAC20-171-30;
3. The applicable, nonrefundable registration renewal fee; and
4. For individuals with firearms endorsements, evidence of completion of annual firearms retraining in accordance with ~~6VAC20-171-400. Part V, Article 2 (6VAC20-171-365 et seq.) of this chapter;~~ and.

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~~5. Upon the request of the department, a new photo taken by a certified private security services training school or other site approved by the department.~~

D. Upon completion of the renewal registration application requirements, the department may issue a registration letter for a period not to exceed 24 months. ~~This registration letter shall be submitted by the applicant to the Virginia Department of Motor Vehicles or other specified entity for a state-issued photo identification card.~~

E. Any renewal application received by the department shall meet all renewal requirements prior to the expiration date of a registration or shall be subject to the requirements set forth by the reinstatement provisions ~~of this chapter~~ pursuant to 6VAC20-171-180.

## **6VAC20-171-135. Firearms endorsement.**

~~A. Firearms training~~ A firearms endorsement is required for all private security services business personnel who carry or have immediate access to a firearm while on duty. Each person who carries or has immediate access to firearms while on duty shall qualify with each type of action and caliber of firearm to which he has access.

B. Each person applying for a firearms endorsement shall meet the minimum requirements for eligibility as follows:

1. Must be registered in a regulated category.
2. Must complete entry-level handgun, and if applicable, shotgun and patrol rifle training as described in Part V, Article 2 (6VAC20-171-365 et seq.) of this chapter.

C. All armed private security services business personnel with the exception of personal protection specialist must satisfactorily complete firearms retraining prescribed in 6VAC20-171-400.

D. All armed personal protection specialist must satisfactorily complete firearms retraining prescribed in 6VAC20-171-420.

E. Firearms endorsements are issued for a period not to exceed 12 months. Individuals must complete firearms retraining within the ~~20~~ 90 days prior to the expiration of their current firearm endorsement or will be required to complete entry-level training requirements prior to applying for an active endorsement.

### Article 7

#### Additional Categories/Replacement Identification

## **6VAC20-171-160. Additional category application.**

A. Individuals may apply for multiple registration or certification categories during the initial application process by completing the applicable training requirements for each category.

B. Registered or certified individuals seeking to add categories to a current registration or certification must:

1. Successfully complete all initial training requirements for each additional registration or certification category requested pursuant to the compulsory minimum training

standards in Part V (6VAC20-171-350 et seq.) of this chapter;

2. Submit a properly completed application provided by the department; and

3. Submit the applicable, nonrefundable application fee.

C. Individuals may avoid paying a separate fee for additional registration or certification categories when the categories are requested on the application for renewal.

## **6VAC20-171-170. Replacement state issued [ photo identification registration or certification ] letter card.**

Registered or certified individuals seeking a replacement state issued [ ~~photo identification registration or certification~~ ] letter card shall submit to the department:

1. A properly completed application provided by the department; and
2. The applicable, nonrefundable application fee.

### Article 8

#### Reinstatement and Renewal Extension

## **6VAC20-171-180. Reinstatement.**

A. Any business license, training school, instructor, compliance agent, detector canine handler examiner certification, ~~instructor certification~~ or registration not renewed on or before the expiration date shall become null and void. Pursuant to the Code of Virginia, all such persons must currently be licensed, registered or certified with the department to provide private security services.

B. A renewal application must be received by the department within 60 days following the expiration date of the license, certification or registration in order to be reinstated by the department providing all renewal requirements have been met. Prior to reinstatement the following shall be submitted to the department:

1. The appropriate renewal application and completion of renewal requirements including required training pursuant to this chapter; and
2. The applicable, nonrefundable reinstatement fee pursuant to this chapter and in accordance with 6VAC20-171-20 B.

The department shall not reinstate renewal applications received after the 60-day reinstatement period has expired. It is unlawful to operate without a valid registration, certification, or license including during reinstatement period.

~~The department shall not reinstate business licenses or training school certifications that have become null and void due to not maintaining required insurance or surety bond coverage.~~

C. No license, registration or certification shall be renewed or reinstated when all renewal application requirements are received by the department more than 60 days following the expiration date of the license. After that date, the applicant

shall meet all initial application requirements, including applicable training requirements.

D. Following submittal of all reinstatement requirements, the department will process and may approve any application for reinstatement pursuant to the renewal process for the application.

E. When a license, certification, or registration is reinstated, the applicant shall continue to have the same DCJS number and shall be assigned an expiration date two years from the previous expiration date of the license, certification, or registration.

F. An applicant who reinstates shall be regarded as having been continuously licensed, certified, or registered without interruption. Therefore, the applicant shall remain under the disciplinary authority of the department during this entire period and may be held accountable for his activities during this period.

G. A person who fails to reinstate his license, certification, or registration shall be regarded as unlicensed, uncertified, or unregistered from the expiration date of the license, certification, or registration forward.

H. Nothing in this chapter shall divest the department of its authority to discipline a person for a violation of the law or regulations during the period of time for which the person was licensed, certified, or registered.

I. Firearms endorsements are not eligible for reinstatement. If renewal requirements are not met pursuant to 6VAC20-171-135, the applicant shall meet all initial application requirements, including applicable initial firearms training requirements.

#### **6VAC20-171-190. Renewal extension.**

A. An extension of the time period to meet renewal requirements may be approved only under specific circumstances which do not allow private security personnel, businesses, or training schools to complete the required procedures within the prescribed time period. The following are the only circumstances for which extensions may be granted:

1. Extended illness;
2. Extended injury;
3. Military or foreign service; or
4. Any emergency temporary assignment of private security personnel for purposes of (i) natural disaster, (ii) homeland security or (iii) documented threat, by the private security services business or training school for which he is employed.

B. A request for extension shall:

1. Be submitted in writing, dated and signed by the individual or principal of a licensed entity prior to the expiration date of the time limit required for completion of the requirements. This requirement may be waived by the

department based on an evaluation of the justification for waiver.

2. Indicate the projected date the person, business, or training school will be able to comply with the requirements; and

3. Include a copy of the physician's record of the injury or illness, ~~or~~ a copy of the government orders or documentation of emergency temporary assignment.

~~C. No extension will be approved for registrations, certifications, or business licenses that have expired.~~

~~D. C.~~ Applications for additional extensions may be approved upon written request of the person, business, or training school.

D. The total time for renewal extension, including additional extensions, shall not exceed 12 months beyond the original expiration date. If renewal requirements are not met during the period of extension, the individual must complete all initial training requirements to include applicable entry-level training.

E. The private security services person, business, or training school shall be nonoperational during the period of extension unless otherwise issued a temporary exemption and has been authorized by the department pursuant to § 9.1-139 of the Code of Virginia.

#### Article 9

Application Sanctions; Exemptions, Recognition/Reciprocity  
**6VAC20-171-200. Denial, probation, suspension and revocation.**

A. The department may deny a license, registration or certification in which any person or principal of an applying business has been convicted in any jurisdiction of any felony or of a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms. Any plea of nolo contendere shall be considered a conviction for the purposes of this chapter. The record of a conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction.

B. The department may deny a license, registration or certification in which any person or principal of an applying business or training school has not maintained good standing in every jurisdiction where licensed, registered or certified in a private security services or related field; or has had his license, registration or certification denied upon initial application, suspended, revoked, surrendered, or not renewed; or has otherwise been disciplined in connection with a disciplinary action prior to applying for licensing, registration or certification in Virginia.

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C. Any false or misleading statement on any state application or supporting documentation is grounds for denial or revocation and may be subject to criminal prosecution.

D. The department may deny licensure ~~to a firm,~~ certification, or registration for other just cause.

E. A licensee, training school, compliance agent, instructor, detector canine handler examiner, or registered individual shall be subject to disciplinary action for violations or noncompliance with the Code of Virginia or this chapter. Disciplinary action shall be in accordance with procedures prescribed by the Administrative Process Act. The disciplinary action may include but is not limited to a letter of censure, fine, probation, suspension or revocation.

F. If a registrant or certified person is subject to disciplinary action for violations or noncompliance with the Code of Virginia or this chapter, the department will notify the last known licensed or certified private security services business or training school by which they were employed or affiliated.

## Part IV

### Administrative Requirements/Standards of Conduct

#### Article 1

#### Private Security Services Businesses General Requirements

#### **6VAC20-171-215. General requirements.**

All private security services registered and certified personnel, licensed businesses and certified training schools are required to maintain administrative requirements and standards of conduct as determined by the Code of Virginia, department guidelines and this chapter.

#### Article 2

#### Private Security Services Businesses

#### **6VAC20-171-220. Business administrative requirements.**

A licensee shall:

1. Maintain at all times with the department its ~~email address and physical location in Virginia where records required to be maintained by the Code of Virginia and this chapter are kept and available for inspection by the department~~ address [ in Virginia where records required to be maintained by the Code of Virginia and this chapter are kept and available for inspection by the department, the physical address of all locations in Virginia utilized by the licensee in which regulated services are offered, ] and email address if applicable. A post office box is not a physical ~~location~~ address. ~~Such notification~~ Notification of any change shall be in writing and received by the department no later than 10 days after the effective date of the change.

2. Maintain at all times with the department its current operating name and all fictitious names. Any name change reports shall be submitted in writing within 10 days after the occurrence of such change and accompanied by certified true copies of the documents that establish the name change.

3. Report in writing to the department any change in its ownership or principals that does not result in the creation of a new legal entity. Such written report shall be received by the department within 30 days after the occurrence of such change to include fingerprint cards pursuant to this chapter.

4. Report in writing to the department any change in the entity of the licensee that results in continued operation requiring a license. Such written report shall be received by the department within 10 days after the occurrence of such change.

5. Maintain at all times current liability coverage at least in the minimum amounts prescribed by the application requirements of this chapter. ~~Failure of the business to do so shall result in the license becoming null and void. Each day of uninsured activity would be construed as an individual violation of this requirement.~~

6. Maintain at all times with the department a completed irrevocable consent for service if the licensee is not a resident of the Commonwealth of Virginia. Licensees that move their business from the Commonwealth shall file a completed irrevocable consent for services within 15 days of the change in location.

7. Employ at all times at least one individual designated as compliance agent who is in good standing and is certified pursuant to 6VAC20-171-70 [ ~~and who is not currently designated as compliance agent for another licensee~~ ]. In the event there is more than one compliance agent designated for the business, designate one as the primary compliance agent and point of contact.

8. Maintain at all times and for a period of not less than three years from the date of termination of employment the following documentation concerning all regulants: documentation or electronic images of the date of hire in the regulated category, documentation that the fingerprint processing application was submitted on the date of hire, verification that the employee is a U.S. citizen or legal resident alien and is properly registered/certified and trained, current physical and mailing addresses for all regulated employees and telephone numbers if applicable.

9. Upon termination of employment of a certified compliance agent, notify the department in writing within 10 calendar days. This notification shall include the name of the individual responsible for the licensee's adherence to applicable administrative requirements and standards of conduct during the period of replacement.

10. Within 90 days of termination of employment of the sole remaining compliance agent, submit the name of a new compliance agent who is eligible for certification pursuant to this chapter [ ~~and who is not currently designated for another licensee~~ ]. Individuals not currently eligible may pursue certification pursuant to Part III (6VAC20-171-30 et seq.) of this chapter. ~~Such~~ This

notification shall be in writing and signed by a principal of the business and the designated compliance agent.

11. Prominently display at all times for public inspection, in a conspicuous place where the public has access, the business license issued by the department.

12. Ensure that all individuals submit fingerprint cards pursuant to 6VAC20-171-30 as required by the Code of Virginia.

13. Inform the department in writing within 10 days of receiving knowledge of any principal, partner, officer, compliance agent or employee regulated or required to be regulated by this chapter ~~being arrested for a crime in any jurisdiction~~, pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.

14. Inform the department in writing within 10 days of receiving knowledge of any principal, licensee, subsidiary, partner, officer, compliance agent or employee regulated or required to be regulated by this chapter, having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction [ ~~there being no appeal therefrom or the time for appeal having elapsed~~ ].

15. On a form provided by the department and within 10 calendar days of receiving knowledge of ~~the~~ an incident, submit a report of any incident in which any registrant has discharged a firearm while on duty, excluding any training exercise.

16. In the event a complaint against the licensee is received by the department, be required to furnish documentary evidence (written agreement) of the terms agreed to between licensee and client, which shall include at a minimum the specific scope of services and fees assessed for such services. The licensee shall retain a copy for a period of not less than three years from completion of said agreement.

17. Not fail to honor the terms and conditions of a warranty or written agreement.

18. In the event a licensee sells or otherwise transfers the ownership of a monitoring agreement of an electronic security customer in Virginia, notify the end user, in writing, within 30 days of the transfer of monitoring services. No licensee shall sell or otherwise transfer to an entity not licensed in Virginia.

19. Ensure that all regulated employees carry ~~a state the department issued the~~ [ ~~photo identification~~ ] registration card along with their registration or certification card, unless the card is one in the same issued by the department while on duty or temporary registration letter along with a photo ID while on duty.

20. Ensure that all regulated employees authorized to provide private security services while completing compulsory minimum training standards pursuant to § 9.1-139 H of the Code of Virginia carry a photo ID along with an authorization form provided by the department while on duty.

21. Maintain a written use of force policy dictating the business' policy for using deadly force and for use of less lethal force. A statement certifying that the employee has read and understands the business' use of force policy must be signed by each employee who is permitted to carry firearms or intermediate weapons and maintained in the employee's file.

~~21.~~ 22. Maintain records for individual employees permitted to carry intermediate weapons while on duty to verify training in the use of the permitted intermediate weapons.

~~22.~~ 23. Maintain at all times and for a period of not less than three years from the date of termination, decertification or other separation, records of detector canine handler team certifications to include a photo of detector canine teams utilized to provide regulated private security services as defined in this chapter.

**6VAC20-171-230. Business standards of conduct.**

A licensee shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.
2. Ensure that all employees regulated, or required to be regulated, by this chapter conform to all application requirements, administrative requirements and standards of conduct pursuant to the Code of Virginia and this chapter.
3. Not direct any employee regulated, or required to be regulated, by this chapter to engage in any acts prohibited by the Code of Virginia and this chapter.
4. Employ individuals regulated, or required to be regulated, as follows:
  - a. A licensee shall employ or otherwise utilize individuals possessing a valid registration issued by the department showing the registration categories required to perform duties requiring registration pursuant to the Code of Virginia;
  - b. A licensee shall not allow individuals requiring registration as armored car personnel, armed security officers/couriers, armed alarm respondents with firearm endorsement, private investigators, personal protection specialists, detector canine handlers or security canine handlers to perform private security services until such time as the individual has been issued a registration by the department;
  - c. A licensee may employ individuals requiring registration as unarmed alarm respondent ~~without firearm endorsement~~, locksmith, central station dispatcher,

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electronic security sales representative, electronic security technician, unarmed armored car driver, unarmed security officer or electronic security technician's assistant for a period not to exceed 90 consecutive days in any registered category listed above while completing the compulsory minimum training standards provided:

(1) The individual's fingerprint ~~cards have~~ card has been submitted pursuant to Article 1 (6VAC20-171-30 et seq.) of Part III of this chapter;

(2) The individual is not employed in excess of 120 days without having been issued a registration from the department; and

(3) The individual did not fail to timely complete the required training with previous employer(s).

d. A licensee shall not employ any individual carrying or having access to a firearm in the performance of his duties who has not obtained a valid registration and firearms endorsement from the department; and

e. A licensee shall maintain appropriate documentation to verify compliance with these requirements. A licensee shall maintain these documents after employment is terminated for a period of not less than three years.

5. Not contract or subcontract any private security services in the Commonwealth of Virginia to a person not ~~required to be~~ required licensed by the department. Verification of a contractor's or subcontractor's license issued by the department shall be maintained for a period of not less than three years.

6. Ensure that the compliance agent conforms to all applicable application requirements, administrative requirements and standards of conduct pursuant to the Code of Virginia and this chapter.

7. Permit the department during regular business hours to inspect, review, or copy those documents, electronic images, business records or training records that are required to be maintained by the Code of Virginia and this chapter.

8. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.

9. Not commit any act or omission that results in a private security license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

10. Not have ~~Ensure that regulated employees of the business have not~~ been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as

described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms [ ~~from which no appeal is pending, the time for appeal having elapsed~~ ]. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

11. Not obtain or aid and abet others to obtain a license, license renewal, registration, registration renewal, certification, certification renewal, or firearms endorsement through any fraud or misrepresentation.

12. Include the business license number issued by the department on all business advertising materials pursuant to the Code of Virginia. Business advertising materials containing information regarding more than one licensee must contain the business license numbers of each licensee identified.

13. Not conduct a private security services business in such a manner as to endanger the public health, safety and welfare.

14. Not falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration or certification.

15. Not represent as one's own a license issued to another private security services business.

16. When providing central station monitoring services, attempt to verify the legitimacy of a burglar alarm activation by calling the site of the alarm. If unable to make contact, call one additional number provided by the alarm user who has the authority to cancel the dispatch. (This shall not apply if the alarm user has provided written authorization requesting immediate or one call dispatch to both their local police department and their dealer of record). This shall not apply to duress or hold-up alarms.

17. Not perform any unlawful or negligent act resulting in loss, injury or death to any person.

18. Utilize vehicles for private security services using or displaying a an amber flashing light only as specifically authorized by § 46.2-1025.9 of the Code of Virginia.

19. Not use or display the state seal of Virginia or the seal of the Department of Criminal Justice Services, or any portion thereof, or the seal of any political subdivision of the Commonwealth, or any portion thereof, as a part of any logo, stationery, letter, training document, business card, badge, patch, insignia or other form of identification or advertisement.

20. Not provide information obtained by the firm or its employees to any person other than the client who secured the services of the licensee without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, the courts, or the

department shall not constitute a violation of this chapter. Provision of information to law-enforcement agencies pertinent to criminal activity or to planned criminal activity shall not constitute a violation of this chapter.

21. Not engage in acts of unprofessional conduct in the practice of private security services.

22. Not engage in acts of negligent or incompetent private security services.

23. Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.

24. Not violate any state or local ordinances.

25. Satisfy all judgments to include binding arbitrations related to private security services not provided.

26. Not publish or cause to be published any ~~written business~~ material relating to private security services that contains an assertion, representation, or statement of fact that is false, deceptive or misleading.

27. Not conduct private security business under a fictitious or assumed name unless the name is on file with the Department of Criminal Justice Services. This does not apply to a private investigator conducting a "pretext," provided that the private investigator does not state that he is representing a private security business that does not exist or otherwise prohibited under federal law.

28. Not act as or be an ostensible licensee for undisclosed persons who do or will control directly or indirectly the operations of the licensee's business.

29. Not provide false or misleading information to representatives of the department.

~~30. Not refuse to cooperate with an investigation being conducted by the department.~~

~~31.~~ 30. Not provide materially incorrect, misleading, incomplete, or untrue information on a license application, renewal any email, application, or any other document filed with the department.

**6VAC20-171-240. Compliance agent administrative requirements and standards of conduct.**

A compliance agent shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.

2. Maintain at all times with the department his mailing address and email address if applicable. Written notification of any change of address shall be ~~in writing~~ and received by the department no later than 10 days after the effective date of the change.

3. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.

4. Not commit any act or omission which results in a private security license or registration being suspended,

revoked, not renewed or being otherwise disciplined in any jurisdiction.

5. Not have been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms [ ~~from which no appeal is pending, the time for appeal having elapsed~~ ]. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

6. Inform the department, and the licensee for which the individual is designated as compliance agent if applicable, in writing within 10 days after ~~being arrested for a crime in any jurisdiction,~~ pleading guilty or nolo contendere or ~~and after~~ being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.

7. Inform the department, and the licensee for which the individual is designated as compliance agent if applicable, in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction [ ~~there being no appeal therefrom or the time for appeal having elapsed~~ ].

8. Not obtain a license, license renewal, registration, registration renewal, certification or certification renewal through any fraud or misrepresentation.

[ ~~9. Only be designated with the department and acting as a compliance agent for one licensed entity.~~

~~10.~~ 9. ] Be designated with the department as compliance agent for a licensee and shall:

a. Ensure that the licensee and all employees regulated, or required to be regulated, by this chapter conform to all application requirements, administrative requirements and standards of conduct pursuant to the Code of Virginia and this chapter;

b. Maintain documentation for all employees or persons otherwise utilized that verifies compliance with requirements pursuant to the Code of Virginia and this chapter;

c. Notify the department in writing within 10 calendar days following termination of his employment as compliance agent for the licensee; ~~and~~

d. Ensure that all regulated employees carry a state the department issued photo identification card. ~~unless the~~

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~~card is one in the same along with their registration or certification card or temporary registration letter along with a photo ID while on duty; and~~

~~e. Ensure that all regulated employees authorized to provide private security services while completing compulsory minimum training standards pursuant to § 9.1-139 H of the Code of Virginia carry a photo ID along with an authorization form provided by the department while on duty.~~

[ ~~11.~~ 10. ] Not engage in acts of unprofessional conduct in the practice of private security services.

[ ~~12.~~ 11. ] Not engage in acts of negligent and/or incompetent private security services.

[ ~~13.~~ 12. ] Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.

[ ~~14.~~ 13. ] Satisfy all judgments to include binding arbitrations related to private security services not provided.

[ ~~15.~~ 14. ] Not publish or cause to be published any ~~written business~~ material relating to private security services that contain an assertion, representation, or statement of fact that is false, deceptive or misleading.

[ ~~16.~~ 15. ] Not conduct private security business under a fictitious or assumed name unless the name is on file with the Department of Criminal Justice Services. This does not apply to a private investigator conducting a "pretext," provided that the private investigator does not state that he is representing a private security business that does not exist or otherwise prohibited under federal laws.

[ ~~17.~~ 16. ] Not violate any state or local ordinances related to private security services.

[ ~~18.~~ 17. ] Not provide false or misleading information to representatives of the department.

~~19. Not refuse to cooperate with an investigation being conducted by the Department.~~

~~20.~~ [ ~~19.~~ 18. ] Not use access to the department's database information for any other purpose than verifying employee's application status.

~~21.~~ [ ~~20.~~ 19. ] Not allow another to use access granted to the department's database for any purpose.

~~22.~~ [ ~~21.~~ 20. ] Not provide materially incorrect, misleading, incomplete, or untrue information on a ~~certification application, certification renewal~~ any email, application, or any other document filed with the department.

~~23. Not have an arrest that the prima facie evidence would indicate the propensity for harming the public.~~

## Article 2

### Private Security Services Training Schools

#### **6VAC20-171-245. General requirements. (Repealed.)**

~~All training schools are required to maintain administrative requirements and standards of conduct as determined by the Code of Virginia, department guidelines and this chapter.~~

## Article 3

### Private Security Services Training Schools

#### **6VAC20-171-250. Administrative Training school administrative requirements.**

A training school shall:

1. Maintain at all times with the department its ~~email address and physical location in Virginia where records required to be maintained by the Code of Virginia and this chapter are kept and available for inspection by the department~~ address and email address if applicable. A post office box is not a physical ~~location~~ address. ~~Such notification~~ Notification of any change shall be in writing and received by the department no later than 10 days after the effective date of the change.

2. Employ at all times one individual designated as training director who is currently certified as an instructor pursuant to this chapter and who is not currently designated as training director for another training school. A training school may designate a maximum of four individuals as assistant training school directors.

3. Upon termination of the services of a certified instructor, notify the department in writing within 10 calendar days. Should the instructor also be designated as the training director for the training school, this notification shall include the name of the instructor responsible for the training school's adherence to applicable administrative requirements and standards of conduct during the period of training director replacement.

4. Within 90 days of termination of employment of the sole remaining training director, submit the name of a new instructor eligible for designation pursuant to this chapter and who is not currently designated for another training school. Individuals not currently eligible may pursue certification pursuant to Part III (6VAC20-171-30 et seq.) of this chapter. Such notification shall be in writing and signed by a principal of the training school and the designated training director.

5. Notify the department in writing of any certified instructors or subject matter specialists eligible to provide instruction at the training school. The notification shall be received by the department prior to the individual conducting any training for the training school and signed by the training school director and the designated instructor or subject matter specialist.

6. Prominently display at all times, in a conspicuous place where the public has access, the training school certification issued by the department.

7. Maintain at all times current liability coverage at least in the minimum amounts prescribed by the application requirements of this chapter. ~~Failure of the training school to do so shall result in the certification becoming null and void. Each day of uninsured activity would be construed as an individual violation of this requirement.~~

8. Inform the department in writing within 10 days, for any principal, partner, officer, instructor or employee regulated or required to be regulated by this chapter ~~being arrested for a crime in any jurisdiction,~~ pleading guilty or nolo contendere or being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.

9. Inform the department in writing within 10 days, for any principal, partner, officer, instructor or employee regulated or required to be regulated by this chapter having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction [ ~~, there being no appeal therefrom or the time for appeal having elapsed~~ ].

10. Report in writing to the department any change in its ownership or principals that does not result in the creation of a new legal entity. Such written report shall be received by the department within 10 days after the occurrence of such change to include fingerprint cards submitted pursuant to 6VAC20-171-30.

11. Maintain at all times with the department its current operating name and fictitious names. Any name change reports shall be submitted in writing within 10 days after the occurrence of such change and accompanied by certified true copies of the documents that establish the name change.

12. Report in writing to the department any change in the entity of the training school that results in continued operation requiring a certification. Such written report shall be received by the department within 10 days after the occurrence of such change.

13. Maintain written authorization from the department for any subject matter specialists being used to provide instruction.

14. Develop lesson plans for each training curriculum and subject being offered in accordance with the topical outlines submitted to the department to include hours of instruction.

15. Maintain comprehensive and current lesson plans for each entry level training curriculum and subject being offered.

16. Maintain comprehensive and current lesson plans for each in-service training curriculum and subject being offered.

17. Maintain comprehensive and current lesson plans for each firearms training curriculum and subject being offered.

18. Date all lesson plans and handout material, including the initial date of development and subsequent revisions.

19. Ensure that current copies of the following requirements are provided to and maintained with the department, including:

- a. A list of all training locations used by the training school, excluding hotel/motel facilities;
- b. A list of all firing range names and locations;
- c. A list of all subject matter specialists currently employed, or otherwise utilized; and
- d. Copies of current topical outlines for all lesson plans and curriculums. The lesson plans and subsequent course outlines shall include (i) specific reference to the course content involving the Code of Virginia and this chapter and (ii) the hours of instruction.

20. Ensure that range qualification for all firearms training is completed pursuant to this chapter except with written authorization from the department.

21. On a form provided by the department and within 10 calendar days of ~~the~~ an incident, submit a report of any incident in which any instructor, student or employee has discharged a firearm while on duty, excluding any training exercise.

22. Not act as or be a certified training school for undisclosed persons who directly or indirectly control the operation of the training school.

23. Inform the department and compliance agent of the employing business if applicable, in a format prescribed by the department within seven days of any person regulated under this chapter who fails to requalify with a minimum passing score on the range.

## **6VAC20-171-260. Training school standards of conduct.**

A training school shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.
2. Ensure that the owners, principals, training director and all instructors employed by the training school conform to all applicable application requirements, administrative requirements and standards of conduct pursuant to the Code of Virginia and this chapter.
3. Utilize only certified instructors, or other individuals eligible to provide instruction pursuant to this chapter in the conduct of private security training sessions.
4. Maintain current files that include copies or electronic images of attendance records, a master final examination, pass/fail recording of examination and firearms qualification scores, training completion rosters, and training completion forms for each student for three years

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from the date of the training session in which the individual student was enrolled.

5. Permit the department during regular business hours to inspect, review, or copy those documents, electronic images, business records or training records that are required to be maintained by the Code of Virginia and this chapter.

6. Permit the department to inspect and observe any training session. Certified training schools that conduct training sessions not located within Virginia may be required to pay the expenses of inspection and review.

7. Include the training school certification number issued by the department on all business advertising materials pursuant to the Code of Virginia.

8. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.

9. Not commit any act or omission that results in a private security license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

10. Ensure that the owner, principals, training director and all instructors employed by the training school have not been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms [  ~~, from which no appeal is pending, the time for appeal having elapsed~~ ]. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

11. Not obtain or aid and abet others to obtain a license, license renewal, registration, registration renewal, certification or certification renewal through any fraud or misrepresentation.

12. Conduct ~~entry-level~~ entry-level and in-service training sessions separately. In-service subjects and curriculums may not be incorporated or included as a part of the entry-level subjects and curriculums unless otherwise authorized by the department.

13. Not conduct a private security services training school in such a manner as to endanger the public health, safety and welfare.

14. Not falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration,

certification, or certification as a compliance agent, training school, school director or instructor.

15. Not represent as one's own a certification issued to another private security services training school.

16. Not perform any unlawful or negligent act resulting in loss, injury or death to any person.

17. Not use or display the state seal of Virginia, or any portion thereof, as a part of any logo, stationery, business card, badge, patch, insignia or other form of identification or advertisement.

18. Not use or display the state seal of the Department of Criminal Justice Services, or any portion thereof, or the seal of any political subdivision of the Commonwealth, or any portion thereof, as a part of the training school's logo, stationery, letter, training document, business card, badge, patch, insignia or other form of identification or advertisement.

19. Not engage in acts of unprofessional conduct in the practice of private security services.

20. Not engage in acts of negligent or incompetent private security services.

21. Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.

22. Not violate any state or local ordinances related to private security services.

23. Satisfy all judgments to include binding arbitrations related to private security services not provided.

24. Not publish or cause to be published any ~~written business~~ material relating to private security services that contains an assertion, representation, or statement of fact that is false, deceptive or misleading.

25. Not provide false or misleading information to representatives of the department.

~~26. Not refuse to cooperate with an investigation being conducted by the department.~~

27. 26. Not act as or be an ostensible certified training school for undisclosed persons who do or will control directly or indirectly the operations of the training school.

~~28. 27. Not provide materially incorrect, misleading, incomplete, or untrue information on a certification application, renewal any email, application, or any other document filed with the department.~~

## **6VAC20-171-270. Private security services training Training school director administrative requirements and standards of conduct.**

A training school director shall:

1. Ensure that the certified training school and all employees regulated, or required to be regulated, by this chapter conform to all application requirements,

administrative requirements and standards of conduct pursuant to the Code of Virginia and this chapter.

2. Conform to all application requirements, administrative requirements and standards of conduct as a certified instructor pursuant to the Code of Virginia and this chapter.
3. Maintain documentation for all employees or persons otherwise utilized that verifies compliance with requirements pursuant to the Code of Virginia and this chapter.
4. Notify the department in writing within 10 calendar days following termination of his employment as training director for the certified training school.
5. Not engage in acts of unprofessional conduct in the practice of private security services.
6. Not engage in act of negligent or incompetent private security services.
7. Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.
8. Not violate any state or local ordinances relating to private security services.
9. Satisfy all judgments to include binding arbitrations relating to private security services not provided.
10. Not publish or cause to be published any ~~written business~~ material relating to private security services that contains an assertion, representation, or statement of fact that is false, deceptive or misleading.
11. Use access to the department's database information only for the purpose of verifying employed instructors' or students' application status.
12. Not allow another to use access granted to the department's database for any purpose.
13. Inform the department and compliance agent of the employing business if applicable, in a format prescribed by the department within seven days of any person regulated under this chapter who fails to requalify with a minimum passing score on the range.

**6VAC20-171-280. Private security services instructor administrative requirements and standards of conduct.**

An instructor shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.
2. Maintain at all times with the department his ~~email address and~~ mailing address and email address if applicable. Written notification of any address change shall be in writing and received by the department no later than 10 days after the effective date of the change.
3. Not have been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and

battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms [ ~~from which no appeal is pending, the time for appeal having elapsed~~ ]. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

4. Inform the department, and the training school for which the individual is designated as an instructor if applicable, in writing within 10 days after ~~being arrested for a crime in any jurisdiction~~ pleading guilty or nolo contendere or ~~and after~~ being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.
5. Inform the department, and the training school for which the individual is designated as instructor, if applicable, in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction [ ~~there being no appeal therefrom or the time for appeal having elapsed~~ ].
6. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.
7. Not commit any act or omission that results in a private security license or registration being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.
8. Not obtain a license, license renewal, registration, registration renewal, certification or certification renewal through any fraud or misrepresentation.
9. Conduct training sessions pursuant to requirements established in this chapter.
10. Notify the department within 10 calendar days following termination of his employment as instructor for the training school.
11. Not engage in acts of unprofessional conduct in the practice of private security services.
12. Not engage in acts of negligent or incompetent private security services.
13. Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.
14. Not violate any state or local ordinances relating to private security services.

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15. Maintain documentation of successful completion of a minimum of two hours of professional development for topics related to each category of instructor certification as established in 6VAC20-171-100 B 6 during each certification period or successful completion of compulsory in-service training by another private security services certified instructor if also registered in the same categories.

16. Not publish or cause to be published any material relating to private security services that contain an assertion, representation, or statement of fact that is false, deceptive, or misleading.

~~16.~~ 17. Not provide false or misleading information to representatives of the department.

~~17. Not refuse to cooperate with an investigation being conducted by the department.~~

18. Not provide materially incorrect, misleading, incomplete, or untrue information in a certification application, renewal on any email, application, or any other document filed with the department.

~~19. Not have an arrest that the prima facie evidence would indicate the propensity for harming the public.~~

19. Transport, carry, and utilize firearms while on duty only in a manner that does not endanger the public health, safety, and welfare.

~~20.~~ 20. Report in writing to the training school director within 24 hours of any person regulated under this chapter who fails to requalify with a minimum passing score on the range.

~~21.~~ 21. Provide any person who fails to requalify with a minimum passing score on the range with a failure to requalify notice provided by the department.

## **6VAC20-171-290. ~~Instruction~~ exceptions Instructor alternatives.**

### A. Subject matter specialist.

1. Training schools may employ or otherwise utilize individuals as subject matter specialists to provide instruction in specific areas of a training curriculum. During the approved portions of training, a certified instructor is not required to be present.

2. The training school shall obtain written authorization from the department prior to any subject matter specialist providing instruction. Written authorization may be requested by submitting on a form provided by the department:

- a. A written request for authorization specifically outlining the requested subject matter; and
- b. Documentation that supports the individual's credentials for instructing in the proposed subject matter.

3. The department may issue a written authorization for a period not to exceed 24 months.

B. Guest lecturer. Training schools may employ or otherwise utilize individuals as guest lecturer in specific areas of a training curriculum. A certified instructor is required to be present during all portions of training conducted by a guest lecturer.

## **6VAC20-171-300. Private security services training session.**

A. Training sessions will be conducted in accordance with requirements established in this chapter. Adherence to the administrative requirements, attendance and standards of conduct are the responsibility of the training school, training school director and instructor of the training session.

### B. Administrative requirements.

1. In a manner approved by the department, a notification to conduct a training session shall be submitted to the department. All notifications shall be received by the department, or postmarked if mailed, no less than seven calendar days prior to the beginning of each training session to include the date, time, instructors and location of the training session. The department may allow a session to be conducted with less than seven calendar days of notification with prior approval. Session notifications require no fee from the training school. A notification to conduct a training session shall be deemed to be in compliance unless the training school director is notified by the department to the contrary.

2. Notification of any changes to the dates, times, location or cancellation of a future training session must be submitted to the department in writing and received by the department at least 24 hours in advance of the scheduled starting time of the class. In the event that a session must be cancelled on the scheduled date, the department must be notified immediately followed by a cancellation in writing as soon as practical.

~~2. All current training material to include course 3. Course outline and training objectives must be approved by the department prior to offering a course of instruction for enrollment.~~

~~3. On a form provided by the department, the 4. The training school director shall issue an original training completion form and training certificate provided by the department to each student who satisfactorily completes a training session no later than five business days following the training completion date. The training completion form shall include the following:~~

- a. ~~A unique training completion number;~~
- b. ~~The name, a unique identification number, and address of the individual;~~
- c. ~~The name of the particular course that the individual completed;~~
- d. ~~The dates of course completion/test passage;~~

~~e. An expiration date. Training completion forms shall expire 12 months from the date of course completion;~~

~~f. The name, address, telephone number, and training school certification number; and~~

~~g. The name, signature, and DCJS identification number of the school director and primary instructor.~~

4. 5. In a manner approved by the department, the training school director shall submit an original training completion roster to the department affirming each student's successful completion of the session. The training completion roster shall be received by the department within seven calendar days, or postmarked if mailed, no later than five business days following the training completion date. ~~The training completion roster for each session and~~ must be accompanied by the applicable, nonrefundable processing fee.

5. 6. A written examination shall be administered at the conclusion of each entry level training session. The examination shall be based on the applicable learning objectives. The student must attain a minimum grade of ~~80% for compliance agent entry level training or 70% for all other entry-level training examinations and~~ pass any applicable practical exercises, to satisfactorily complete the training session.

6. 7. Firearms classroom training shall be separately tested and graded. Individuals must achieve a minimum score of 70% on the firearms classroom training examination.

7. 8. Failure to achieve a minimum score of 70% on the firearms classroom written examination will exclude the individual from the firearms range training.

8. 9. To successfully complete the handgun or shotgun firearms range training, the individual must achieve a minimum qualification score of 75% of the scoring value of the target.

9. ~~To successfully complete the private investigator entry level training session, the individual must:~~

~~a. Successfully complete each of the four graded practical exercises required; and~~

~~b. Pass the written examination with a minimum score of 70%.~~

10. ~~To successfully complete the personal protection specialist entry level training session, the individual must:~~

~~a. Complete each of the five graded practical exercises required under protective detail operations pursuant to 6VAC20-171-350 E-6 (the practical exercises must be successfully completed prior to the written examination); and~~

~~b. Pass the written examination with a minimum score of 70%.~~

11. ~~The unarmed security officer must:~~

~~a. Complete the required training; and~~

~~b. Successfully pass the written examination with a minimum score of 70%.~~

9. 10. To successfully complete the advanced firearms range training, the individual must achieve a minimum qualification score of 92% of the scoring value of the target.

10. 11. To successfully complete the patrol rifle firearms range training, the individual must achieve a minimum qualification score of 85% of the scoring value of the target.

C. Attendance.

1. Private security services business personnel enrolled in an approved training session are required to be present for the hours required for each training session unless they have been granted a partial exemption to training from the department.

2. Tardiness and absenteeism will not be permitted. Individuals violating these provisions will be required to make up any training missed. ~~Such~~ All training must be completed within ~~60 days after the completion of the training session or at the next available session offered by the training school~~ the 12 months prior to application of a registration or certification. Individuals not completing the required training within this period are required to complete the entire training session.

3. Individuals ~~that~~ who do not successfully complete the compulsory minimum training standards of the training session shall not be ~~reported to the department except where required pursuant to this chapter~~ issued a training completion form or training certificate.

4. Each individual attending an approved training session shall comply with the regulations promulgated by the board and any other rules within the authority of the training school. If the training school director or instructor considers a violation of the rules detrimental to the training of other students or to involve cheating on examinations, the training school director or instructor may expel the individual from the school. Notification of such action shall immediately be reported to the employing firms and the department.

D. Standards of conduct.

1. The training school, training school director and instructor shall at all times conform to the application requirements, administrative requirements and standards of conduct established for certification as a training school and instructor.

2. Training sessions will be conducted by certified instructors or other individuals authorized to provide instruction pursuant to this chapter and [ they each of whom ] must be present for all periods of instruction unless otherwise authorized by the department.

3. Training sessions will be conducted utilizing lesson plans developed including at a minimum the compulsory

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minimum training standards established pursuant to this chapter.

4. Instruction shall be provided in no less than 50-minute classes.

5. Training sessions ~~may~~ shall not exceed nine hours of classroom instruction per day. Range qualification and practical exercises shall not be considered classroom instruction; however, total training, including the maximum allotment of nine hours classroom instruction and applicable range qualification and practical exercises, shall not exceed 12 hours per day. This does not include time allotted for breaks, meals and testing.

6. All audio-visual training aids must be accompanied by a period of instruction where the instructor reviews the content of the presentation and the students are provided the opportunity to ask questions regarding the content.

7. A training session must adhere to the minimum compulsory training standards and must be presented in its entirety. Training school directors may require additional hours of instruction, testing or evaluation procedures.

8. A training session must provide accurate and current information to the students.

9. Mandated training [ ~~conducted that is~~ ] not [ ~~conducted~~ ] in accordance with the Code of Virginia and this chapter is null and void.

10. A duplicate set of instructor course materials, including all student materials, shall be made available to any department inspector during the training session, if requested.

11. Certifiable in-service training may include a maximum of one hour of instruction dedicated to the review of regulations unless otherwise authorized by the department.

12. [ ~~There will be no live ammunition permitted in the classroom.~~ Live ammunition, pyrotechnics, and explosives are not to be utilized or present in any firearms training environment except on a firing range approved by the department. ]

## Article 3

### Private Security Services Registered Personnel

#### **6VAC20-171-305. General requirements On-line in-service training programs.**

~~All registered personnel are required to maintain administrative requirements and standards of conduct as determined by the Code of Virginia, department guidelines and this chapter.~~

On-line training programs may only be offered for compulsory minimum in-service training requirements. On-line training programs shall meet the following requirements:

1. All on-line schools shall maintain a private security services training school certification in good standing and meet all of the administrative requirements and standards of conduct specified in this chapter.

[ 2. All on-line training courses must meet the minimum compulsory in-service training standards pursuant to 6VAC20-171-360 to include topic and hour requirements.

3. All on-line training courses must provide that a private security services instructor certified in the category of training in which the course is being offered is available to the students during normal business hours. ]

[ ~~2. 4.~~ ] All [ ~~current~~ ] on-line training material to include complete course content [ ~~, and~~ ] performance objectives [ ~~, and other applicable instructional material~~ ] of mandated compulsory training requirements must be approved by the department prior to offering a course of instruction for enrollment.

[ 5. Certifiable in-service training may include a maximum of one hour of instruction dedicated to the review of regulations unless otherwise authorized by the department.

6. All on-line training course content, lesson plans, course objectives, and other applicable instructional material must be updated every two years to ensure curriculum is current.

7. All on-line training must be delivered through a learning management system (LMS) capable of managing training records, delivering course content, monitoring participation, assessing performance, and creating and editing course content. ]

[ ~~3- 8.~~ ] Students enrolled in an on-line training program shall successfully complete all course material within 30 days of the first log-on to the training school [ ~~website learning management system~~ ] or prior to the registration or certification expiration date or final reinstatement date [ ~~, whichever comes first~~ ].

[ 9. All on-line training must include assessment instruments that evaluate student performance. ]

[ ~~4. 10.~~ ] Training schools offering on-line courses that accept credit card payments shall subscribe to an e-commerce solution service to protect the security and integrity of the monetary transaction.

[ ~~5. 11.~~ ] The [ ~~training software programs learning management system~~ ] used by a certified training school shall allow the department auditing access to the training system. Such auditing access shall be available 24 hours a day, seven days a week.

[ ~~6. 12.~~ ] The [ ~~training software program learning management system~~ ] shall be capable of generating a unique electronic notification of training completion for each student completing the course requirements and each course of instruction on a 24-hour a day basis.

[ ~~7. 13.~~ ] The training [ ~~of~~ ] completion [ ~~form~~ ] shall include the following:

[ a. A unique training completion number;

b. a. ] The name, a unique identification number, and address of the individual;

~~[ e. b. ]~~ The name of the particular course that the individual completed;

~~[ d. c. ]~~ Dates of course completion ~~[ /test passage;~~

~~e. d. ]~~ Name, address, telephone number, and license number of the training school; and

~~[ f. e. ]~~ Name ~~[, signature;~~ and DCJS identification number of the school director and primary instructor.

~~[ 8. 14. ]~~ The ~~[ training software program learning management system~~ shall be capable of generating a training certificate for each student and each course of instruction that can be printed by the student's computer and printer. This training certificate shall only be made available to the student upon successful completion of all course material.

~~9. 15. ]~~ The ~~[ training software program learning management system ]~~ shall be capable of capturing and archiving student information for a period of not less than three years.

~~[ 10. 16. ]~~ Training schools offering on-line training courses will designate one individual as the network administrator for that school's network server. The network administrator will be the technical contact between the department and the training school. Upon termination of the services of the designated network administrator, a new administrator shall be designated and notification made to the department within 10 days after effective date of the change.

**6VAC20-171-308. Detector canine handler examiners administrative requirements and standards of conduct.**

**A. Administrative requirements. An examiner shall:**

1. Maintain at all times with the department his ~~email address and~~ mailing address and email address if applicable. Written notification of any address change shall be in writing and received by the department no later than 10 days after the effective date of the change.

2. Inform the department, and the business or training school for which the individual is employed, if applicable, in writing within 10 days after ~~being arrested for a crime by any court,~~ pleading guilty or nolo contendere, and after being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.

3. Inform the department, and the licensed business or training school for which the individual is employed, ~~if applicable~~ or utilized, in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction ~~[, there being no appeal therefrom or the time for appeal having elapsed ]~~.

4. Satisfy all judgments to include binding arbitrations related to private security services not provided.

5. Notify the department within 10 calendar days following termination of his employment as an examiner for a business or training school.

6. Conduct examinations ~~[ pursuant to the requirements established by the department.~~ in accordance with the standards of the Department of Defense Military Working Dog Program, Scientific Working Group on Dog and Orthogonal Detector Guidelines, or other nationally recognized organization approved by the department. ]

7. Notify the department within 10 calendar days following termination of any certification as a detector canine handler examiner or equivalent with any national organization, unit of the United States military, or other formal entity involved with certifying, training or setting standards for detection canines.

8. Notify the department in writing within 10 calendar days of determining that a detector canine handler or detector canine fails to successfully complete the certification examination.

9. Maintain documentation and a photograph of the examined detector canine team for three years for all examinations conducted that verifies compliance with requirements pursuant to the Code of Virginia and this chapter.

10. Utilize only department-approved certification examinations for the testing and certification of detector canine teams.

**B. Standards of conduct. An examiner shall:**

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.

2. Not have been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms ~~[, from which no appeal is pending, the time for appeal having elapsed ]~~. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

3. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.

4. Not commit any act or omission that results in a private security license, registration, or certification being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

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5. Not obtain a license, license renewal, registration, registration renewal, certification, or certification renewal through any fraud or misrepresentation.

6. Not engage in acts of unprofessional conduct in the practice of private security services.

7. Not engage in acts of negligent or incompetent private security services.

8. Not make any misrepresentation or false promise to a private security services business client or potential private security services business client.

9. Not violate any state or local ordinances relating to private security services.

10. Not publish or cause to be published any material relating to private security services that contain an assertion, representation, or statement of fact that is false, deceptive, or misleading.

11. Not provide false or misleading information to representatives of the department.

12. Not refuse to cooperate with an investigation being conducted by the department.

13. Not provide materially incorrect, misleading, incomplete, or untrue information in a certification application, renewal application, or any other document filed with the department.

14. Not have an arrest that the prima facie evidence would indicate the propensity for harming the public.

12. Not provide materially incorrect, misleading, incomplete, or untrue information on any email, application, or any other document filed with the department.

[ Article 4

Private Security Services Registered Personnel ]

## **6VAC20-171-310. Registered personnel administrative requirements.**

A registered individual shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.

2. Maintain at all times with the department his mailing address, e-mail address and phone number, if applicable. Written notification of any change in mailing address, e-mail address or phone number shall be in writing and received by the department no later than 10 days after the effective date of the change.

3. Inform the department, and the business for which the individual is employed if applicable, in writing within 10 days after ~~being arrested for a crime in any jurisdiction~~ pleading guilty or nolo contendere or ~~and after~~ being convicted or found guilty of any felony or of a misdemeanor as outlined in § 9.1-139 K of the Code of Virginia.

4. Inform the department, and the business for which the individual is employed if applicable, in writing within 10 days after having been found guilty by any court or administrative body of competent jurisdiction to have violated the private security services business statutes or regulations of that jurisdiction [ ~~there being no appeal therefrom or the time for appeal having elapsed~~ ].

5. Inform the department, and the compliance agent of the licensee if employed by a private security services business, of any incident in which any registrant has discharged a firearm while on duty, excluding any training exercise. This report shall be made within 24 hours of the incident.

## **6VAC20-171-320. Registered personnel standards of conduct.**

A registered individual shall:

1. Conform to all requirements pursuant to the Code of Virginia and this chapter.

2. Not violate or aid and abet others in violating the provisions of Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia or this chapter.

3. Not commit any act or omission that results in a private security license, registration or certification being suspended, revoked, not renewed or being otherwise disciplined in any jurisdiction.

4. Not have been convicted or found guilty in any jurisdiction of the United States of any felony or a misdemeanor involving moral turpitude, assault and battery, damage to real or personal property, controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 of the Code of Virginia, prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia, or firearms [ ~~from which no appeal is pending, the time for appeal having elapsed~~ ]. Any plea of nolo contendere shall be considered a conviction for the purpose of this chapter. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be prima facie evidence of such guilt.

5. Not obtain a license, license renewal, registration, registration renewal, certification or certification renewal through any fraud or misrepresentation.

6. Not solicit or contract to provide any private security services without first having obtained a private security services business license with the department.

7. Carry ~~Be in possession of~~ a valid registration card or valid temporary ~~authorization~~ registration letter at all times while on duty. Individuals requiring registration as an unarmed security officer, an alarm respondent, a locksmith, a central station dispatcher, an electronic security sales representative or an electronic security technician may be

employed for not more than 90 consecutive days in any category listed above while completing the compulsory minimum training standards and may not be employed in excess of 120 days without having been issued a registration or an exception from the department and must carry a photo ID and authorization from their employer on a form provided by the department at all times while on duty.

8. Carry ~~Be in the possession of~~ the private security state issued [~~photo~~] registration [~~identification~~] card at all times while on duty once the authorization has been approved from the department, except those individuals operating outside the Commonwealth of Virginia who shall obtain the state issued [~~photo-identification registration~~] card prior to providing services when physically located in the Commonwealth.

9. Perform those duties authorized by his registration only while employed by a licensed private security services business and only for the clients of the licensee. This shall not be construed to prohibit an individual who is registered as an armed security officer from being employed by a nonlicensee as provided for in § 9.1-140 of the Code of Virginia.

10. Possess a valid firearms training endorsement if he carries or has access to firearms while on duty and then only those firearms by type of action and caliber to which he has been trained on and is qualified to carry. Carry or have access to a patrol rifle while on duty only with the expressed written authorization of the licensed private security services business employing the registrant.

11. Carry a firearm concealed while on duty only with the expressed written authorization of the licensed private security services business employing the registrant and only in compliance with § 18.2-308 of the Code of Virginia.

12. Transport, carry and utilize firearms while on duty only in a manner that does not endanger the public health, safety and welfare.

13. If authorized to make arrests, make arrests in full compliance with the law and using only the minimum force necessary to effect an arrest.

14. Engage in no conduct which shall mislead or misrepresent through word, deed or appearance ~~suggests~~ that a registrant is a law-enforcement officer, or other government official.

15. Display one's [~~photo-identification~~] registration or temporary registration along with a photo ID while on duty in response to the request of a law-enforcement officer, department personnel, or client. Individuals providing private security services as authorized pursuant to subdivision 7 of this section who have not received their registration must display a state issued photo identification and authorization while on duty in response to the request

of a law-enforcement officer, department personnel, or client.

16. Not perform any unlawful or negligent act resulting in a loss, injury or death to any person.

17. If a uniform is required, wear the uniform required by his employer. If wearing a uniform while employed as an armed security officer, unarmed security officer, alarm respondent or armored car personnel, that uniform must:

a. Include at least one insignia clearly identifying the name of the licensed firm employing the individual and, except armored car personnel, a name plate or tape bearing, as a minimum, the individual's last name attached on the outermost garment, except rainwear worn only to protect from inclement weather; and

b. Include no patch or other writing (i) containing the word "police" or any other word suggesting a law-enforcement officer; (ii) containing the word "officer" unless used in conjunction with the word "security"; or (iii) resembling any uniform patch or insignia of any duly constituted law-enforcement agency of this Commonwealth, its political subdivisions or of the federal government. ~~This restriction shall not apply to individuals who are also duly sworn special police officers, to the extent that they may display words that accurately represent that distinction.~~

18. When providing central station monitoring services as a central station dispatcher, attempt to verify the legitimacy of a burglar alarm activation by ~~contacting an authorized individual at the site where an alarm signal originated before dispatching authorities~~ calling the site of the alarm. If unable to make contact, call one additional number provided by the alarm user who has the authority to cancel the dispatch. This shall not apply if the alarm user has provided written authorization requesting immediate dispatch or one call dispatch to both their local police department and their dealer of record. This shall not apply to duress or hold-up alarms.

19. Act only in such a manner that does not endanger the public health, safety and welfare.

20. Not represent as one's own a registration issued to another individual.

21. Not falsify, or aid and abet others in falsifying, training records for the purpose of obtaining a license, registration, certification, or certification as a compliance agent, training school, school director or instructor.

22. Not provide information obtained by the registrant or his employing firm to any person other than the client who secured the services of the licensee without the client's prior written consent. Provision of information in response to official requests from law-enforcement agencies, the courts, or from the department shall not constitute a violation of this chapter. Provision of information to law-enforcement agencies pertinent to criminal activity or to

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planned criminal activity shall not constitute a violation of this chapter.

23. Not engage in acts of unprofessional conduct in the practice of private security services.

24. Not engage in acts of negligent or incompetent private security services.

25. Not make any misrepresentation or make a false promise to a private security services business client or potential private security services business client.

26. Satisfy all judgments to include binding arbitrations related to private security services not provided.

27. Not provide false or misleading information to representatives of the department.

28. Not refuse to cooperate with an investigation being conducted by the department.

29. 28. Not provide materially incorrect, misleading, incomplete, or untrue information on a registration application, renewal application, or any other document filed with the department.

30. Not have an arrest that the prima facie evidence would indicate the propensity for harming the public.

## Part V

### Compulsory Minimum Training Standards for Private Security Services ~~Business Personnel~~ Registrations

#### Article 1

#### Registration/Certification Registration Category Requirements

#### **6VAC20-171-350. Entry level training.**

A. Each person employed by a private security services business or applying to the department for registration as an unarmed security officer, armed security officer/courier, personal protection specialist, armored car personnel, security canine handler, explosives detector canine handler, narcotics detector canine handler, private investigator, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, or electronic security technician's assistant as defined by § 9.1-138 of the Code of Virginia, ~~or for certification as a compliance agent as required by § 9.1-139 of the Code of Virginia, who has not met the compulsory minimum training standards prior to July 13, 1994,~~ must meet the compulsory minimum training standards herein established, unless provided for otherwise in accordance with this chapter.

B. Training will be credited only if application for registration ~~or certification~~ is submitted to received by the department within 12 months of completion of training.

C. ~~Hour~~ Course and minimum hour requirement. The compulsory minimum entry level training courses and specific minimum hour requirement by category, excluding examinations, practical exercises and range qualification, shall be:

1. Unarmed security officer - 18 hours

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. 01E: Security Officer Core Subjects - 16 hours~~ 18 hours

2. Armed security officer/courier ~~- 40 hours~~ 50 hours ~~(54 hours (53 hours including shotgun training))~~

~~\*There are 8 hours of Arrest Powers, Policies, Procedures that are included in the Armed Security Officer Training. These 8 hours are mandatory for armed security officers only.~~

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. a. 01E: Security Officer Core Subjects - 16 hours~~ 18 hours

~~e. b. 05E: Armed Security Officer Arrest Authority - 8 hours~~

~~d. c. 075E: Basic Security Officer Handgun - 24 hours~~

~~e. d. 08E: Entry-level Shotgun - 4 hours~~ 3 hours (if applicable [ \* ]\* ~~To - to~~ ) also have access to a shotgun while on duty, the additional shotgun course is required [  ~~]~~ ]

3. Armored car personnel - ~~26 hours~~ ~~(30 hours~~ 28 hours ~~(31 hours with shotgun))~~

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. a. 03E: Armored Car Procedures - 0 hours~~ 12 hours

~~e. b. 07E: Fundamental Entry-level Handgun - 14 hours~~ 16 hours

~~d. c. 08E: Entry-level Shotgun - 4 hours~~ 3 hours (if applicable [ \* ]\* ~~To - to~~ ) also have access to a shotgun while on duty, the additional shotgun course is required [  ~~]~~ ]

4. Security canine handler - 30 hours ~~(excluding basic obedience training)~~

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. a. 01E: Security Officer Core Subjects - 16 hours~~ 18 hours (prerequisite for 04ES)

~~e. b. Prerequisite for 04ES - Basic Obedience Training~~

~~d. c. 04ES: Security Canine Handler - 12 hours~~

5. Private investigator - 60 hours

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. 02E: Private Investigator Subjects - 58 hours~~ 60 hours

6. Personal protection specialist - 60 hours

~~a. 10E: Private Security Orientation - 2 hours~~

~~b. a. 02E 32E: Personal Protection Specialist - 58 hours~~ 60 hours

~~e. b. 075E 07E: Basic Entry-level Handgun - 24 hours~~ 16 hours (prerequisite for 09E Advanced Handgun)

~~d. c. 09E: Advanced Handgun - 14 hours~~ (for armed personal protection specialists)

7. Alarm respondent - 18 hours

- ~~a. 10E: Private Security Orientation – 2 hours~~
- ~~b. 01E: Security Officer Core Subjects - 16 hours 18 hours~~
- 8. Central station dispatcher - 8 hours
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. a. 30E: Electronic Security Core Subjects - 2 hours 4 hours~~
  - ~~e. b. 38E: Central Station Dispatcher - 4 hours~~
- 9. Electronic security sales representative - 8 hours
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. a. 30E: Electronic Security Core Subjects - 2 hours 4 hours~~
  - ~~e. b. 39E: Electronic Security Sales - 4 hours~~
- 10. Electronic security technician - 14 hours
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. a. 30E: Electronic Security Core Subjects - 2 hours 4 hours~~
  - ~~e. b. 35E: Electronic Security Technician - 10 hours~~
- 11. Electronic security technician's assistant - 4 hours
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. 30E: Electronic Security Core Subjects - 2 hours 4 hours~~
- 12. Detector Canine Handler - 160 hours (excluding certification examination)
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. a. 04ED: Detector Canine Handler - 158 hours 160 hours~~
  - ~~e. b. Certification exam by a Certified Detector Canine Handler Examiner~~
- 13. Locksmith - 18 hours
  - ~~a. 10E: Private Security Orientation – 2 hours~~
  - ~~b. 25E: Locksmith - 16 hours 18 hours~~
- 12. Compliance agent – 6 hours

D. Course content. The compulsory minimum entry level training course content by category specific course, excluding examinations, mandated practical exercises and range qualification, shall be as provided in this subsection.

- ~~1. Private Security Orientation (10E) – 2 Hours (excluding examination)~~
  - ~~a. Introduction to private security~~
  - ~~b. Applicable sections of the Code of Virginia and Regulations Relating to Private Security Services~~
  - ~~e. Written comprehensive examination~~

~~This session is a requirement for all registration categories. However, an individual applying for more than one category of registration or adding an additional category shall only be required to take this training one time within 12 months of submitting application.~~

- 1. ~~2.~~ Security officer core subjects [ - ] (01E) - ~~16 hours~~ 18 hours (excluding examination)

The entry level curriculum for unarmed security officer, armed security officer/courier, security canine handler, and alarm respondent sets forth the following areas identified as:

- a. Orientation – 2 hours
- (1) ~~Virginia law and regulations~~ Applicable sections of the Code of Virginia and Regulations Relating to Private Security Services
- (2) Code of ethics
- (3) General duties and responsibilities
- (4) [ ~~The Seven~~ ] Signs of Terrorism
- b. ~~a.~~ Law – 4 hours
- c. ~~b.~~ Security patrol, access control and communications – 2 hours
- d. ~~e.~~ Documentation – 4 hours
- e. ~~d.~~ Emergency procedures – 4 hours
- f. ~~e.~~ Confrontation management – 2 hours
- ~~f. g.~~ Use of force
- ~~g. h.~~ Written comprehensive examination

Total hours (excluding exam) – ~~18~~ 16 hours

- ~~2. Armed security officer/courier. 3. 2. Armed Security Officer Arrest Authority (05E) - 8 hours (excluding examination)~~

- a. Arrest powers, policies and procedures
- b. Written comprehensive examination
- a. Security officer core subjects – ~~18~~ 16 hours
- b. Entry level handgun training (refer to Article 2 (6VAC20-171-365 et seq.) of this part) – 14 hours (includes dry fire, and judgmental shooting and low level light shooting familiarization)
- c. Arrest powers, policies, procedures – 8 hours
- d. Entry level shotgun training, if applicable (refer to Article 2 (6VAC20-171-365 et seq.) of this part) – 2 hours

Total hours (excluding examinations, shotgun classroom instruction and range qualification) – 40 hours

- 3. ~~4.~~ Armored car personnel [ - ] (03E) - 10 hours (excluding examination)

- a. Administration and armored car orientation – 1 hour
- [ b. ~~The Seven~~ ] Signs of Terrorism
- [ ~~b. c.~~ ] Applicable sections of the Code of Virginia and Regulations Relating to Private Security Services DCJS regulations – 1 hour
- [ e. d. ] ~~a.~~ Armored car procedures – 10 hours
- [ ~~d. e.~~ ] ~~b.~~ Written comprehensive examination

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e. ~~Entry level handgun training (refer to Article 2 (6VAC20 171 365 et seq.) of this part) 14 hours (includes 4 hours of range dry fire and low level lighting)~~

f. ~~Entry level shotgun training, if applicable (refer to Article 2 (6VAC20 171 365 et seq.) of this part) 2 hours~~

~~Total hours (excluding examinations, shotgun classroom instruction and range qualification) 26 hours~~

4. ~~5.~~ Security canine handler [ - ] (04ES) [ - ] ~~20 hours~~ 12 hours (excluding examination and basic obedience training)

a. Prerequisites for security canine handler entry level (official documentation required): Successful completion of basic obedience training.

b. Demonstration of proficiency. The student must demonstrate his proficiency in the handling of a security canine to satisfy the minimum standards

c. Evaluation by a certified private security canine handler instructor and basic obedience retraining

d. Security canine handler orientation/legal authority

e. Canine patrol techniques

f. Written comprehensive examination

~~Complete entry level training requirements pursuant to Article 3 (6VAC20 171 430 et seq.) of this part.~~

5. ~~6.~~ Private investigator [ - ] (02E) - ~~58 hours~~ 60 hours (excluding examination and practical exercises)

a. ~~Orientation :- applicable sections of the Code of Virginia; Administrative Code 6VAC20 171; standards Standards of professional conduct; and ethics 6 hours~~

(1) Applicable sections of the Code of Virginia

(2) 6VAC20-171, Regulations Relating to Private Security Services

(3) Standards of professional conduct

(4) Ethics

(5) [ ~~The Seven~~ ] Signs of Terrorism

b. ~~Law: basic law; legal procedures and due process; civil law; criminal law; evidence; and legal privacy requirements 16 hours plus one practical exercise - one practical exercise~~

(1) Basic law

(2) Legal procedures and due process

(3) Criminal and Civil law

(4) Evidence

(5) Legal privacy requirements

c. ~~General investigative skills [ - ] tools and techniques; surveillance; research; and interviewing 16 hours plus one practical exercise - one practical exercise~~

(1) Tools and techniques

(2) Surveillance

(3) Research

(4) Interviewing

d. ~~Documentation [ - ] Report preparations; photography; audio recording; general communication; and courtroom testimony 8 hours plus one practical exercise - one practical exercise~~

(1) Report preparations

(2) Photography

(3) Audio recording

(4) General communication

(5) Courtroom testimony

e. ~~Types of investigations:— accident; insurance; background; domestic; undercover; fraud and financial; missing persons and property; and criminal 14 hours plus one practical exercise - one practical exercise~~

(1) Accident

(2) Insurance

(3) Background

(4) Domestic

(5) Undercover

(6) Fraud and financial

(7) Missing persons and property

(8) Criminal

f. Written comprehensive examination

~~Total hours in classroom (excluding written examination and practical exercises) 60 hours~~

6. ~~7.~~ Personal protection specialist [ - ] (32E) - ~~58 hours~~ 60 hours (excluding written examination and practical exercises)

a. ~~Administration and personal protection orientation 3 hours~~

[ ~~(1) The Seven~~ ] Signs of Terrorism

b. ~~Applicable sections of the Code of Virginia and DCJS regulations 1 hour~~

c. ~~b.~~ Assessment of threat and protectee vulnerability 8 hours

d. ~~e.~~ Legal authority and civil law 8 hours

e. ~~d.~~ Protective detail operations 28 hours

f. ~~e.~~ Emergency procedures 12 hours

(1) CPR ~~Medical procedures~~

(2) Emergency first aid ~~Defensive preparedness~~

(3) Defensive preparedness

g. ~~f.~~ Performance evaluation - Five practical exercises

h. ~~g.~~ Written comprehensive examination

~~Total hours (excluding written examination and performance evaluation) 60 hours~~

7. ~~Alarm respondent.~~

- Security officer core subjects—18 hours
- ~~8- 7. Electronic security core subjects [ - ] (30E) - 2 hours 4 hours (excluding examination) The entry level electronic security subjects curriculum for central station dispatcher, electronic security sales representative, electronic security technician and electronic security technician's assistant sets forth the following areas identified as:~~
- a. Administration and orientation to private security—1 hour
    - (1) Applicable sections of the Code of Virginia
    - (2) 6VAC20-171, Regulations Relating to Private Security Services
    - (3) [ ~~The Seven~~ ] Signs of Terrorism
  - b. Applicable sections of the Code of Virginia and DCJS regulations—1 hour
  - e. ~~a. b.~~ Overview of electronic security—1 hour
  - d. ~~b. c.~~ False alarm prevention—1 hour
  - e. ~~c. d.~~ Written comprehensive examination
- Total hours (excluding examination)—4 hours
- ~~9- 8. Central station dispatcher [ - ] (38E) - 4 hours (excluding examination)~~
- a. Electronic security subjects—4 hours
  - b. ~~a.~~ Central station dispatcher subjects—4 hours
    - (1) Duties and responsibilities
    - (2) Communications skills
    - (3) Emergency procedures
  - e. ~~b.~~ Written comprehensive examination
- Total hours (excluding examination)—8 hours
- ~~10- 9. Electronic security sales representative [ - ] (39E) [ - ] 4 hours (excluding examination)~~
- a. Electronic security subjects—4 hours
  - b. ~~a.~~ Electronic security sales representative subjects—4 hours
    - (1) Duties and responsibilities
    - (2) System design/components
    - (3) False alarm prevention
  - e. ~~b.~~ Written comprehensive examination
- Total hours (excluding examination)—8 hours
- ~~11- 10. Electronic security technician [ - ] (39E) - 4 hours (excluding examination)~~
- a. Electronic security subjects—4 hours
  - b. ~~a.~~ Electronic security technician subjects - 10 hours
    - (1) Duties and responsibilities
    - (2) Electronics
    - (3) Control panels
    - (4) Protection devices and application
    - (5) Test equipment

- (6) Power and grounding
  - (7) National electrical code
  - (8) Job safety
  - e. ~~b.~~ Written comprehensive examination
- Total hours (excluding examination)—14 hours
- ~~12. Compliance agent:~~
- a. Industry overview and responsibilities
  - b. Regulations review
  - e. ~~c.~~ Business practices and ethical standards
  - d. Records requirements and other related issues
  - e. ~~c.~~ Written examination
- Total hours (excluding written examination)—6 hours
- ~~12- 11. Detector Canine Handler (04ED) - 158 hours 160 hours to include practical exercises (excluding certification exam)~~
- a. Introduction/orientation/administration
    - (1) Code of Ethics
    - (2) General Duties and Responsibilities
    - (3) Legal
    - (4) Applicable sections of the Code of Virginia and Regulations Relating to Private Security Services
    - (5) [ ~~The Seven~~ ] Signs of Terrorism
  - b. Working Canines
    - (1) Historical Perspective
    - (2) Terms and Definitions
    - (3) Methodology and Application
    - (4) Training Documentation
    - (5) Search Patterns
  - c. Basic Canine Handling (including practical exercises)
    - (1) Training
    - (2) Care and Health
    - (3) Emergency Medical Care
  - d. Detector Canine Deployment
    - Canine Behavior: Reading and Understanding
  - e. Explosive or Narcotics Familiarization (including practical exercises)
    - (1) Illegal Narcotics Familiarization
    - (2) Explosives Substance and I.E.D. Familiarization
    - (3) Safety
  - f. Written comprehensive exam
- ~~13- 12. Locksmith (25E) - 16 hours 18 hours (excluding examination)~~
- a. Code of Virginia and 6VAC20-171, Regulations Relating to Private Security Services
    - [ ~~b. The Seven~~ ] Signs of Terrorism

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~~a.~~ [ ~~b.~~ ~~c.~~ ] Orientation to Locksmithing

- (1) History of locksmithing
- (2) Ethics
- (3) Trade resources
- (4) Terminology
- (5) Professional conduct
- (6) Job safety

~~b.~~ ~~c.~~ Public Safety Codes

- (1) NFPA (80, 101)
- (2) Overview of Authorities Having Jurisdiction (AHJs)
- (3) ADA
- (4) Terminology
- (5) Safety code resources

~~e.~~ ~~d.~~ Technical Applications –10 hours

- (1) Terminology (to include definition/purpose/function)
- ~~(a)~~ (2) Locks/types
- ~~(b)~~ (3) Handing
- ~~(c)~~ (4) Master keying
- ~~(d)~~ (5) Key records and codes
- ~~(e)~~ (6) Key blanks and keyways
- ~~(f)~~ (7) Physical security
- ~~(g)~~ (8) Types of client sites
- ~~(h)~~ (9) Safes/vaults
- ~~(i)~~ (10) Access control
- ~~(j)~~ (11) Handling restricted keys
- ~~(k)~~ (12) Door system components
- ~~(l)~~ (13) Automotive

~~(m)~~ e. Written comprehensive examination

## **6VAC20-171-360. In-service training.**

A. Each person registered with the department as an armed security officer/courier, personal protection specialist, armored car personnel, security canine handler, narcotics detector canine handler, explosives detector canine handler, private investigator, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, unarmed security officer or electronic security technician's assistant, or certified by the department to act as a compliance agent shall complete the compulsory in-service training standard once during each 24-month period of registration or certification.

### **1. Compliance agent.**

- ~~a. In-service training must be completed within 12 months immediately preceding the expiration date.~~
- ~~b. Individuals who fail to complete in-service training prior to the established expiration date may complete in-service training within 30 days after the expiration date if a completed in-service training enrollment application~~

~~and a \$25 delinquent training fee is received by the department.~~

~~2. Instructor. All private security instructors must complete instructor in-service training within 12 months immediately preceding the individual's expiration date.~~

B. ~~Hour~~ Course content and minimum hour requirement. The compulsory minimum in-service training content and minimum hour requirement by category, excluding examinations, practical exercises and range qualification, shall be as follows:

1. Unarmed security officer: (01I) Security Officer Core Subjects In-Service - 4 hours

~~a. Legal authority~~ b. Job-related training

2. Armed security officer/courier (01I) Security Officer Core Subjects In-Service - 4 hours (not including range retraining)

~~a. Legal authority~~ b. Job-related training

3. Armored car personnel (03I) Armored Car Personnel In-Service - 4 hours (not including range retraining)

~~a. Legal authority~~ b. Job-related training

4. Security canine handler (04IS) Security Canine Handler In-Service - 8 hours

- a. Basic obedience evaluation and retraining
- b. Canine grooming, feeding, and health care
- c. Apprehension techniques
- d. Obedience

5. Private investigator (02I) Private Investigator In-Service - 8 hours

Job-related training

6. Personal protection specialist (32I) Personal Protection Specialist In-Service - 8 hours (not including range retraining for armed)

Job-related training

7. Alarm respondent (01I) Security Officer Core Subjects In-Service - 4 hours

~~a. Legal authority~~ b. Job-related training

8. Central station dispatcher [ ~~(38I) Central Station Dispatcher~~ (30I) Electronic Security Subjects ] In-Service - 4 hours

Job-related training

9. Electronic security sales representative [ ~~(39I) Electronic Sales Representative~~ (30I) Electronic Security Subjects ] In-Service - 4 hours

Job-related training

10. Electronic security technician [ ~~(35I) Electronic Technician~~ (30I) Electronic Security Subjects ] In-Service - 4 hours

Job-related training

11. ~~Electronic security technician's assistant (30I) Electronic Security Subjects In-Service - [ 2 hours 4 hours ]~~

~~Job-related training~~

12. ~~Compliance agent—4 hours Detector canine handler (04ID) Detector Canine Handler In-Service - 8 hours (excluding certification exam)~~

- ~~a. Detector canine team retraining and problem solving~~
- ~~b. Search techniques~~
- ~~c. Terrorist/criminal intelligence update updates and team safety~~
- ~~d. Certification exam (conducted by a certified detector canine handler examiner)~~

13. ~~Firearms instructor—4 hours Locksmith (25I) Locksmith In-Service - 4 hours~~

~~Job-related training~~

14. ~~General instructor—4 hours~~

~~C. Course content. The compulsory minimum in service training course content by category, excluding examinations, practical exercises and range qualification, shall be as follows:~~

- ~~1. Security officer core subjects: Unarmed security officer/armed security officer/courier/alarm respondent~~
  - ~~a. Legal authority—2 hours~~
  - ~~b. Job-related training—2 hours~~

~~Total hours—4 hours~~

~~2. Armored car personnel~~

~~Job-related training—4 hours~~

~~Total hours—4 hours~~

~~3. Security canine handler (annual requirement per 6VAC20-171-440)~~

- ~~a. Basic obedience evaluation and retraining—4 hours~~
- ~~b. Job-related training—4 hours~~

~~Total hours—8 hours~~

~~4. Private investigator~~

~~Job-related training—8 hours~~

~~Total hours—8 hours~~

~~5. Personal protection specialist~~

~~Job-related training—8 hours~~

~~Total hours—8 hours~~

~~6. Central station dispatcher~~

~~Job-related training—4 hours~~

~~Total hours—4 hours~~

~~7. Electronic security sales representative~~

~~Job-related training—4 hours~~

~~Total hours—4 hours~~

~~8. Electronic security technician~~

~~Job-related training—4 hours~~

~~Total hours—4 hours~~

~~9. Electronic security technician's assistant~~

~~Job-related training—2 hours~~

~~Total hours—2 hours~~

~~10. Compliance agent~~

- ~~a. Industry overview and responsibilities~~
- ~~b. Regulations review~~
- ~~c. Business practices and ethical standards~~
- ~~d. Records requirements and other related topics~~

~~Total hours—4 hours~~

~~11. General instructor~~

- ~~a. Regulations review and legal issues~~
- ~~b. Ethical standards~~
- ~~c. Records requirements and other related topics~~
- ~~d. Techniques of instruction delivery, including practical exercises~~

~~Total hours—4 hours~~

~~12. Firearms instructor~~

- ~~a. Legal issues~~
- ~~b. Techniques of delivery of instruction and other related topics~~

~~Total hours—4 hours~~

Article 2

Firearms Training Requirements

**6VAC20-171-365. General firearms training requirements.**

A. Firearms training endorsement is required for all private security services business personnel who carry or have immediate access to a firearm while on duty. Each person who carries or has immediate access to firearms while on duty shall qualify with each type of action and caliber of firearm to which he has access.

B. Each person registered as armored car personnel, security canine handler, detector canine handler, private investigator, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician, or electronic security technician's assistant must complete ~~fundamental~~ entry-level handgun training in order to apply for a firearms endorsement.

C. Each person applying for a registration as an armed security officer/courier must complete ~~basic~~ security officer handgun training in order to apply for a firearms endorsement.

D. Each person registered as a personal protection specialist must complete entry-level [ or armed security officer ] handgun training and advanced handgun training in order to apply for a firearms endorsement.

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## 6VAC20-171-370. Entry level Fundamental handgun training.

### A. Handgun classroom training.

1. The entry-level fundamental handgun classroom training will include but not be limited to the following:

- a. ~~The proper care and maintenance of the firearm;~~
- b. ~~Civil liability of the use of firearms;~~
- c. ~~Criminal liability of the use of firearms;~~
- d. ~~Firearms retention and storage;~~
- e. ~~Deadly force;~~
- f. ~~Justifiable deadly force;~~
- g. ~~Range safety;~~
- h. ~~Principles of marksmanship;~~
- i. ~~Practical firearms handling and safety;~~
- j. ~~Judgmental shooting; and~~
- k. ~~Low level light shooting familiarization.~~

### a. Practical handgun handling

- (1) Identification of handgun parts
- (2) Draw
- (3) Reholstering
- (4) Ready position
- (5) Loading
- (6) Administrative loading
- (7) Tactical reloading
- (8) Rapid reloading
- ~~(7) (9) Unloading~~
- ~~(8) Administrative~~
- ~~(9) (10) Malfunctions~~
- ~~(10) (11) Immediate actions procedures~~
- ~~(11) Feedway clearance procedures~~
- ~~(12) Remedial action~~
- ~~(12) (13) Proper care and maintenance~~
- ~~(13) (14) Firearms retention~~
- ~~(14) (15) Ammunition identification and management~~
- ~~(15) (16) Range safety~~

### b. Fundamentals of marksmanship

- (1) Grip
- (2) Stance (position)
- (3) Sight alignment
- (4) Sight picture
- (5) Trigger control
- (6) Breathing
- (7) Follow through

### c. Dim light/low light/reduced light practice and familiarization

- ~~(1) Hours of darkness~~
- ~~(2) (1) Identification of target/threat/background~~
- ~~(3) (2) Unaided training~~
- ~~(4) (3) Aided training~~
- ~~(5) (4) Flashlight use~~
- ~~(6) (5) Reloading during low light conditions~~
- ~~(7) (6) Malfunctions~~
- ~~(8) (7) Range safety~~

### d. Use of force

- (1) Deadly force
- (2) Justifiable deadly force

### e. Criminal and civil liability Liability

- (1) Criminal liability
- (2) Civil liability
- [ (3) Negligent discharge prevention ]

f. Judgmental shooting: judgmental shooting scenarios will be conducted in the classroom/range

### g. Lead exposure

Total Hours (excluding written examination) - ~~14 hours~~ 16 hours

2. Written examination required.

~~B. Range qualification (no minimum hours). The purpose of the range qualification course is to provide practical firearms training to individuals desiring to become armed private security services business personnel.~~

~~1. Prior to the date of range training, it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training. Equipment needed: handgun, belt with directional draw holster, ammunition (60 rounds)~~

~~2. Factory loaded practice or duty ammunition (60 rounds) may be used for practice or range qualification.~~

~~3. Course shall be fired double action, or double single action except for single action semi-automatic handguns.~~

~~4. All qualifications shall be conducted using a B-27 silhouette target or the FBI "Q" target. Alternate targets may be utilized with prior approval by the department.~~

~~5. With prior approval of the department, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.~~

~~6. A certified firearms instructor must be present on the range directly controlling the fire line during all phases of firearms training. There shall be a minimum of one certified firearms instructor per five shooters on the line.~~

~~7. All individuals shall qualify with directional draw holsters only.~~

8. The range qualification of individuals shall be scored as follows:

B27 target: (use indicated K value) 7, 8, 9, 10 X rings—value 5 points, other hits on silhouette—value 0 points: divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g.,  $225 / 300 = .75 = 75\%$ .

FBI Q target: all hits inside the bottle—value 5 points; hits outside the bottle—value 0 points.

9. The low light range/familiarization of individuals shall be scored as indicated above. This is strictly a familiarization course with no pass or fail grade provided.

C. Course: Virginia Private Security Course of Fire for Handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in subsection B of this section. Strong/weak hand refers to the primary hand used in firing the firearm. The opposite hand may be used for support. The course of fire shall be conducted in the following phases:

1. Phase 1; 3 yards, utilizing weaver, modified weaver, or isosceles stance, 18 rounds:

- a. Load 6 rounds and holster loaded firearm.
- b. On command, draw and fire 2 rounds (3 seconds), repeat.
- c. Load 6 rounds and holster loaded firearm.
- d. On command, draw and fire 6 rounds with strong hand.
- e. Unload, reload 6 rounds and fire 6 rounds with weak hand (25 seconds).

2. Phase 2; 7 yards, utilizing weaver, modified weaver, or isosceles stance, 24 rounds:

- a. Load 6 rounds and holster loaded firearm.
- b. On command, draw and fire 1 round (2 seconds), repeat.
- c. Load 6 rounds and holster loaded firearm.
- d. On command, draw and fire 2 rounds (3 seconds), repeat.
- e. Load 6 rounds and holster loaded firearm.
- f. On command, draw and fire 6 rounds, reload 6 rounds, fire 6 rounds (30 seconds).

3. Phase 3; 15 yards, 70 seconds, 18 rounds:

- a. Load 6 rounds and holster loaded firearm.
- b. On command, assume kneeling position, draw and fire 6 rounds with strong hand.
- c. Assume standing position, unload, reload and fire 6 rounds from weak hand barricade position.
- d. Unload, reload and fire 6 rounds from strong hand barricade position (Kneeling position may be fired using barricade position.) (70 seconds).

D. Low Light Course: Virginia Private Security Low Light Familiarization Course of Fire for Handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in this subsection. Equipment needed: belt with directional draw holster, handgun, two speed loaders or three magazines, range ammunition (30 rounds). Equipment provided by instructor: A range that can simulate low light or a pair of welders goggles for each student that simulates low light. Strong/weak hand refers to the primary hand used in firing the firearm. The opposite hand may be used for support. The course of fire shall be conducted in the following phases:

1. Phase 1; 3 yards, utilizing weaver or isosceles stance, 18 rounds:

- a. Load 6 rounds and come to ready.
- b. On command, fire 2 rounds (3 seconds) repeat.
- c. Load 6 rounds and come to ready.
- d. On command, fire 6 rounds with strong hand.
- e. Unload, reload 6 rounds and fire 6 rounds (30 seconds).

2. Phase 2; 7 yards, utilizing weaver or isosceles stance, 12 rounds:

- a. Load 6 rounds and come to ready.
- b. On command, fire 2 rounds (5 seconds), and repeat.
- c. Load 6 rounds and come to ready.
- d. On command, draw and fire 3 rounds (6 seconds), and repeat.

## **6VAC20-171-375. Basic Security officer handgun training.**

Handgun classroom training.

1. The basic security officer handgun classroom training will include but not be limited to the following:

a. Practical handgun handling

(1) Identification of handgun parts

(2) Draw

(3) Reholstering

(4) Ready position

(5) Loading

(6) Administrative loading

(7) Tactical reloading

(8) Rapid reloading

(9) Unloading

(10) Administrative

(11) Malfunctions

(12) Immediate actions procedures

(13) Feedway clearance procedures

(14) Remedial action

(15) Proper care and maintenance

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~~(15)~~ (14) Firearms retention

~~(16)~~ (15) Ammunition identification and management

~~(17)~~ (16) Range safety

[ (17) Tactical considerations

(18) Movement

(19) Cover and concealment ]

## b. Fundamentals of marksmanship

(1) Grip

(2) Stance (position)

(3) Sight alignment

(4) Sight picture

(5) Trigger control

(6) Breathing

(7) Follow through

## c. Dim light/low light/reduced light practice and familiarization

~~(1)~~ Hours of darkness

~~(2)~~ (1) Identification of target/threat/background

~~(3)~~ (2) Unaided training

~~(4)~~ (3) Aided training

~~(5)~~ (4) Flashlight use

~~(6)~~ (5) Reloading during low light conditions

~~(7)~~ (6) Malfunctions

~~(8)~~ (7) Range safety

[ (8) Tactical considerations

(9) Movement

(10) Cover and concealment

(11) Multiple target drills ]

## d. Use of force

(1) Deadly force

(2) Justifiable deadly force

## e. Liability

(1) Criminal liability

(2) Civil liability

(3) Negligent discharge prevention

## f. Judgmental shooting: judgmental shooting scenarios will be conducted in the classroom/range

(1) Shoot/don't shoot judgment

(2) Turn and fire drills

(3) Failure to stop drills

(4) Multiple target drills

## g. Lead exposure

Total Hours (excluding written examination) - 24 hours

2. Written examination required.

## **6VAC20-171-376. Handgun Entry-level and security officer handgun range qualification.**

A. Range qualification (no minimum hours). The purpose of the range qualification course is to provide practical firearms training and qualification to individuals desiring to become armed private security services business personnel.

1. Prior to the date of range training, it will be the responsibility of the school director to ensure that all students are informed of the proper attire and equipment to be worn for the firing range portion of the training. Equipment needed: handgun, belt with directional draw holster, i.e., one that is worn on the same side of the body as the shooting hand, two speed loaders or three magazines, ammunition (48 100 rounds)

2. Each student will fire a minimum of 24 22 rounds of factory loaded ammunition for familiarization prior to qualification. (There is no course of fire and it is not scored; it is at the firearms instructor's discretion on how the round will be utilized.)

3. Course shall be fired double action or ~~double single~~ double/single action, except for single action semi-automatic handguns.

4. All qualifications shall be conducted using a B-27 silhouette target or the FBI "Q" target. Alternate targets may be utilized with prior approval by the department.

5. With prior approval of the department, a reasonable modification of the firearms course may be approved to accommodate qualification on indoor ranges.

6. For those utilizing semi-automatic firearms, it is not necessary to reload after every stage so long as there are at least three tactical reloads during the course of fire.

7. A certified firearms instructor must be present on the range directly controlling the firing line during all phases of firearms training. There shall be a minimum of one certified firearms instructor per five shooters on the line.

~~7-~~ 8. The range qualification of individuals shall be scored as follows:

a. B27 target: (use indicated K-value) 7, 8, 9, 10 X rings - value 5 points, other hits on silhouette - value 0 points; divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g.,  $225 \div 300 = .75 = 75\%$ .

b. FBI Q target: all hits inside the bottle - value 5 points; hits outside the bottle - value 0 points.

~~8-~~ The 9. Although not scored, each student is required to complete the low light range/night time practice as outlined in ~~Section~~ subsection C of this section and the familiarization course of fire.

~~B. Course: Virginia private security course of fire for handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in this subsection. Strong support hand refers to the primary hand used in firing~~

the firearm. All magazines will be loaded to maximum capacity; it will be the responsibility of the student to change magazines as required. Magazine change refers to tactical reloading/reloading refers to when the magazine is depleted. The course of fire shall be conducted in the following phases and scored as follows:

1. Rounds: 48 rounds duty ammunition or equivalent

Initial magazine loading: magazine and speed reloaders loaded to capacity.

Ammunition management: shooter is responsible for maintaining a loaded handgun, performing speed reloads/tactical reloads as necessary. Running out of ammunition during a stage is not a valid alibi.

Target: B 27 or FBI Q target

Scoring: B27 target: 7, 8, 9, 10 X rings value 5 points, other hits on silhouette value 0 points; divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g.,  $190 \div 250 = .76 = 76\%$ .

FBI Q target: all hits inside the bottle — value 5 points; hits outside the bottle — value 0 points.

Total possible: 250 points

Minimum score: 190 (76%) 38 hits

Firing position: all rounds will be fired from a two handed standing position unless noted otherwise.

Reholster: all reholstering will be done on command.

Start position: handgun secured in approved holster, interview position and all spare magazines secured in duty pouches.

2. Magazines loaded to capacity. Shooter is responsible for maintaining a loaded handgun, performing speed reloads and topping off magazines as necessary. Running out of ammunition during a stage is not a valid alibi.

3. Phase 1: 3 yards, utilizing a proper stance, 18 rounds

On command, draw and fire:

a. 2 rounds (3 seconds), drop/scan and re holster, repeat 3 times

b. 1 round (2 seconds), drop/scan and re holster, repeat 6 times

c. 6 rounds (15 seconds), 3 rounds with the strong hand ONLY, transfer firearm the support hand and fire 3 rounds with the support hand ONLY, transfer to strong hand, drop/scan, re holster.

4. Phase 2: 7 yards, utilizing a proper stance, 18 rounds

On command, draw and fire:

a. 1 round (2 seconds), drop/scan and reholster, repeat 6 times

b. 2 rounds (3 seconds), drop/scan and reholster, repeat 3 times

c. 6 rounds (10 seconds), drop/scan and reholster

5. Phase 3: 15 yards, kneeling position, 12 rounds

On command, draw and fire:

6 rounds kneeling strong side barricade position, reload and fire 6 rounds from the support barricade position (25 seconds)

C. Low light course: Virginia private security low light practice/familiarization course of fire for handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in this subsection. Equipment needed: belt with directional draw holster, flashlight, handgun, two speed loaders or three magazines, range ammunition (24 rounds). Equipment provided by instructor: A range that can simulate low light or a pair of welders goggles for each student that simulates low light. Strong/weak hand refers to the primary hand used in firing the firearm. The opposite hand may be used for support. The course of fire shall be conducted in the following phases for practice and familiarization:

1. Target: B 27 or FBI Q target

2. Scoring: B27 target: 7, 8, 9, 10 X rings value 5 points, other hits on silhouette value 0 points; divide points scored by maximum possible score to obtain decimal and convert to percentage, e.g.,  $95 \div 120 = .79 = 79\%$ .

3. FBI Q target: all hits inside the bottle — value 5 points; hits outside the bottle — value 0 points.

4. Phase I: 3 yards, utilizing a proper stance, 12 rounds:

a. Load magazines to full capacity and come to ready

b. On command, fire 2 rounds (3 seconds) repeat

c. On command, fire 6 rounds

(15 Seconds)

5. Phase 2: 7 yards, utilizing proper stance, 12 rounds

a. On command, fire 2 rounds (5 seconds), and repeat

b. On command, fire 3 rounds (6 seconds), and repeat

D. Alternate course of fire semi automatic handguns

1. Firearms instructors are authorized to implement a substitute handgun qualification course for semi automatic handguns that incorporate the following elements at a minimum:

a. All classroom instruction contained in subsection A of this section;

b. The targets used are either a B 27 silhouette target or FBI Q target;

c. All firing is initiated with the firearm in a directional draw holster;

d. The alternative course of fire will incorporate a minimum of 4 magazine changes;

e. Scoring will be the same as that contained in subdivision B 1 of this section;

f. There shall not be more than 5 students on the firing line for each certified firearms instructor present;

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~~g. Firing distances shall be 3 yards, 7 yards, and 15 yards;~~

~~h. A total of 60 rounds of ammunition will be fired by each shooter; and~~

~~i. Course will incorporate strong hand and weak hand firing position.~~

~~2. Timing of firing in each stage will be similar to that imposed in the standard course of fire; i.e., 1 shot in 2 seconds, 2 shots in 3 seconds. Firearms instructors are allowed to decrease the time limits imposed in the standard course of fire, but may not exceed them.~~

~~3. Firearms instructors desiring to develop an alternate course of fire for semi automatic handguns must submit the proposed course in writing to the department for approval prior to that alternate course being used for qualification firing.~~

~~4. An alternative course of fire for semi automatics approved by the department will not be used to qualify or requalify shooters armed with a revolver.~~

B. Course: Virginia private security course of fire for handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in this subsection. Strong/weak hand refers to the primary hand used in firing the firearm. The opposite hand may be used for support. The course of fire shall be conducted in the following phases:

1. Phase 1: 3 yards, utilizing weaver, modified weaver, or isosceles stance, 18 rounds:

- a. Load 6 rounds and holster loaded firearm.
- b. On command, draw and fire 2 rounds (3 seconds), repeat 2 times.
- c. Load 6 rounds and holster loaded firearm.
- d. On command, draw and fire 6 rounds with strong hand.
- e. Unload, reload 6 rounds and fire 6 rounds with weak hand (25 seconds).

2. Phase 2: 7 yards, utilizing weaver, modified weaver or isosceles stance, 24 rounds:

- a. Load 6 rounds and holster loaded firearm.
- b. On command, draw and fire 1 round (2 seconds), repeat 5 times.
- c. Load 6 rounds and holster loaded firearm.
- d. On command, draw and fire 2 rounds (3 seconds), repeat 2 times.
- e. Load 6 rounds and holster loaded firearm.
- f. On command, draw and fire 6 rounds, reload 6 rounds, fire 6 rounds (30 seconds).

3. Phase 3: 15 yards, 70 seconds, 18 rounds [ : ]

- a. Load 6 rounds and holster loaded firearm.
- b. On command, assume kneeling position, draw and fire 6 rounds with strong hand.

c. Assume standing position, unload, reload and fire 6 rounds from weak-hand barricade position.

d. Unload, reload and fire 6 rounds from strong-hand barricade position (kneeling position may be fired using barricade position) (70 seconds).

C. Low light course: Virginia private security low light familiarization course of fire for handguns. The course of fire shall be conducted using, at a minimum, the requirements set forth in this subsection. Equipment needed: belt with directional draw holster, handgun, two speed loaders or three magazines, range ammunition (18 rounds). Equipment provided by instructor: A range that can simulate low light or a pair of welders goggles for each student that simulates low light. Strong/weak hand refers to the primary hand used in firing the firearm. The opposite hand may be used for support. The course of fire shall be conducted in the following phases:

1. Phase I: 3 yards, utilizing weaver or isosceles stance, 6 rounds:

- a. Load 6 rounds and come to ready
- b. On command, fire 2 rounds (3 seconds) repeat 2 times (30 seconds)

2. Phase 2; 7 yards, utilizing weaver or isosceles stance, 12 rounds [ : ]

- a. Load 6 rounds and come to ready
- b. On command, fire 2 rounds (5 seconds), repeat 2 times
- c. Load 6 rounds and come to ready
- d. On command, draw and fire 3 rounds (6 seconds), and repeat.

## **6VAC20-171-380. Entry-level shotgun training.**

A. Shotgun classroom training. Individual must first successfully complete entry-level or security officer handgun training. The ~~entry-level~~ entry-level shotgun classroom instruction will emphasize but not be limited to:

1. Safe and proper use and handling of shotgun;
2. Nomenclature;
3. Positions and combat loading techniques;
4. Decision making for the officer with the shotgun;
5. Transition from sidearm to shotgun; and
6. Shotgun retention and proper use of a sling.

Total hours — 2 hours

### 1. Shotgun handling techniques

- a. Identification of shotgun parts
- b. Slings – traditional sling, single point sling, 3 point sling
- c. Cruiser carry conditions
- d. Cruiser safe
- e. Chambering
- f. Reloading

g. Transition from handgun to shotgun/shotgun to handgun (if applicable)

h. Malfunctions

(1) Immediate actions procedures

(2) Feedway clearance procedures Remedial action

i. Proper care and maintenance

j. Shotgun retention

k. Ammunition management and identification

l. Range safety

m. Dim light/low light

2. Fundamentals of shotgun marksmanship

a. Grip

b. Stance (position)

c. Sight alignment

d. Sight picture

e. Trigger control

f. Breathing

g. Follow through

3. Written examination

Total hours excluding examination (4 hours) (3 hours)

B. Range qualification (no minimum hours). The purpose of the range firing course is to provide practical shotgun training and qualification to those individuals who carry or have

C. Course: Virginia Private Security Course of Fire for Shotguns.

immediate access to a shotgun in the performance of their duties.

~~1. For certification, 12-gauge, double aught "00" buckshot ammunition shall be used. Five rounds.~~

~~2. Scoring—70% of available pellets must be within silhouette.~~

~~1. Fire a minimum of 10 prequalification Familiarization: Prior to the qualification course, all shooters are required to fire a familiarization exercise consisting of 5 rounds using 12 gauge, double aught "00" buckshot or rifle slug ammunition and ~~12~~ 6 rounds minimum of handgun rounds. Prequalification will The exercise shall include transition drills from handgun to shotgun and shotgun to handgun. This exercise is not scored and the distance is at the discretion of the instructor.~~

~~2. Fire ~~10~~ 5 rounds of shotgun rounds (buckshot and/or rifled slugs if issued) on a daylight course using B27 single/multiple targets with 70% accuracy.~~

~~3. Fire 10 rounds of (buck shot and/or rifled slugs if issued) using B27 single/multiple targets on a nighttime course with 70% accuracy.~~

~~4. Complete daylight and dim light shotgun practice and qualification courses with distance, positions, rounds, targets, and time limitations as described in subsection C of this section.~~

Distance	Position	No. Rounds	Target	Time
Combat load & fire 15 Yds.	Standing/Shoulder	3	B-27 Silhouette	20 sec.
Combat load & fire 25 Yds.	Kneeling/Shoulder	2	B-27 Silhouette	15 sec.

<u>Prequalification</u>					
<u>Condition</u>	<u>Distance</u>	<u>Position</u>	<u>Rounds</u>	<u>Target</u>	<u>Time</u>
<u>Cruiser Safe</u>	<u>15</u>	<u>Standing/shoulder/transition*</u>	<u>3-SG/3-HG</u>	<u>B27</u>	<u>25-sec</u>
<u>Open breach</u>	<u>15</u>	<u>Kneeling/shoulder</u>	<u>2</u>	<u>B27</u>	<u>15-sec</u>
<u>Cruiser Safe</u>	<u>25</u>	<u>Kneeling/shoulder/transition</u>	<u>3-SG/3-HG</u>	<u>B27</u>	<u>30-sec</u>
<u>Open breach</u>	<u>25</u>	<u>Standing/shoulder</u>	<u>2</u>	<u>B27</u>	<u>20-sec</u>
<u>Day Light Qualification</u>					
<u>Condition</u>	<u>Distance</u>	<u>Position</u>	<u>Rounds</u>	<u>Target</u>	<u>Time</u>
<u>Cruiser Safe</u>	<u>15</u>	<u>Standing/shoulder</u>	<u>3</u>	<u>B27</u>	<u>15-sec</u>
<u>Open breach reloading</u>	<u>15</u>	<u>Kneeling/shoulder</u>	<u>2</u>	<u>B27</u>	<u>10-sec</u>
<u>Cruiser Safe</u>	<u>25</u>	<u>Kneeling/shoulder</u>	<u>3</u>	<u>B27</u>	<u>20-sec</u>

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<u>Open breach reloading</u>	<u>25</u>	<u>Standing/shoulder</u>	<u>2</u>	<u>B27</u>	<u>25 sec</u>
<u>Dim Light/Low Light Qualification</u>					
<u>Condition</u>	<u>Distance</u>	<u>Position</u>	<u>Rounds</u>	<u>Target</u>	<u>Time</u>
<u>Cruiser Safe</u>	<u>7</u>	<u>Standing/shoulder</u>	<u>3</u>	<u>B27</u>	<u>20 sec</u>
<u>Open breach reloading</u>	<u>7</u>	<u>Kneeling/shoulder</u>	<u>2</u>	<u>B27</u>	<u>15 sec</u>
<u>Cruiser Safe</u>	<u>15</u>	<u>Standing/shoulder</u>	<u>3</u>	<u>B27</u>	<u>25 sec</u>
<u>Open breach reloading</u>	<u>15</u>	<u>Kneeling/shoulder</u>	<u>2</u>	<u>B27</u>	<u>30 sec</u>

D. A certified firearms instructor must be present on the range directly controlling the firing line during all phases of firearms range training. There shall be a minimum of one certified firearms instructor per five shooters on the line.

**6VAC20-171-390. Advanced handgun training - required for the ~~entry-level~~ entry-level personal protection specialist who wishes to have firearms endorsement and optional for other armed registrants.**

A. The entry level ~~basic~~ handgun training is a prerequisite for taking the advanced handgun training.

B. Advanced handgun classroom training.

1. The advanced handgun training will include but not be limited to:

- a. ~~Proper care of the weapon~~ Firearms safety;
- b. Civil ~~and criminal~~ liability ~~of the use of firearms~~;
- c. ~~Criminal liability of the use of firearms~~ Concealed carry law and authority;
- d. ~~Weapons retention~~ Function of firearms in close protection operations;
- e. ~~Deadly force~~ Deployment of firearms in close protection operations;
- f. ~~Justifiable deadly~~ Use of force;
- g. ~~Range safety~~;
- h. ~~Practical firearms handling~~;
- i. g. Principles of advanced marksmanship; and
- j. h. Decision-making for the personal protection specialist.

Total hours (excluding written examination) —~~24 hours~~ = 14 hours

2. Written examination required.

C. Range qualification (no minimum hours). The purpose of this course of fire is to assess and improve the tactical, protection-related shooting skills for personal protection specialist candidates seeking certification to be armed. This course entails five increasingly challenging stages of advanced firearms exercises with a 92% score required for qualification.

1. The advanced handgun course of fire is comprised of the following exercises:

- a. Shoot/don't shoot judgment;
- b. Turn and fire drills;
- c. Failure to stop drills;
- d. Multiple target drills; and
- e. Judgmental shooting.

2. For all range practicals (stage two through stage four):

- a. The student will fire at a man-size silhouette target with the following requirements:
  - (1) 4-inch diameter circle in head;
  - (2) 8-inch diameter circle in chest/body area; and
  - (3) Center points of circles - 13-1/2 inches apart.
- b. All rounds fired must hit within these circles.
- c. Minimum 92% qualification score = 25 rounds total requiring 23 hits. With regard to scoring:
  - (1) 25 points (1 round is good for 1 point).
  - (2) 92% of shots must be "in circle" hits for a passing grade (2 misses allowed on total course).
  - (3) Shots not taken during stage five when a "no-shoot" situation is presented scores a point, just as an accurate shot in a hostile situation.
  - (4) 92% is 23 of 25 possible points.

3. A certified advanced handgun firearms instructor must be on the range during all phases of advanced handgun training. There shall be no less than one certified [~~advanced handgun~~] firearms instructor per four students.

D. Course: Virginia Private Security Advanced Handgun Course of Fire.

1. Stage One: Shoot/don't shoot drill. Stage one of the advanced handgun course of fire is conducted in a classroom using a 16 mm film or video cassette tape of firearms combat scenarios or in practical exercises on the range to assess the student's decision-making capability given job-related shoot/don't shoot incidents.

After the interaction of the scenario, the students must explain all their commands and actions.

Dry-fire response from a weapon rendered safe should be incorporated into the scenario interaction.

2. Stage Two: Turn-and-fire drill. Stage two of the advanced handgun course of fire is held at a firing range and consists of turn-and-fire drills from varying distances (straight draw hip holsters only).

All handguns are loaded with ~~six~~ 6 rounds of ammunition and safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the target. Upon the command "fire," the students must quickly turn while acquiring a firm grip on the weapon. Once facing the target and in a stable position, they must safely draw and fire ~~two~~ 2 rounds at the designated target circle. After shooting, while facing the target, the student must reholster safely, then turn around to face up range, ready to continue the exercise. The "fire" commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

3. Stage Three: Failure to stop drill. Stage three of the advanced handgun course of fire is held at a firing range and consists of failure to stop drills fired from the ~~seven-yard~~ 7-yard line (straight draw hip holsters only).

All handguns are loaded with ~~six~~ 6 rounds of ammunition and are safely holstered. Shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the target. Upon the command "fire," given at approximately the ~~seven-yard~~ 7-yard line, each shooter must safely turn around while acquiring a firm grip on their weapon as performed in the previous drill. Once facing the target, the students will draw and fire ~~two~~ 2 rounds at the 8-inch body circle, and then one immediate round to the 4-inch head circle. The student will then safely reholster. The drill will be repeated three times.

4. Stage Four: Multiple target identification drill. Stage four of the advanced handgun course of fire is held at a firing range and consists of multiple target identification drills fired from varying distances (straight draw hip holsters only).

Each shooter will line up on a set of three targets. Only two shooters at one time can complete this exercise on a standard 10-12 station range. However, smaller ranges may allow for only one shooter at a time.

Each handgun is loaded with six rounds of ammunition and safely holstered. The shooters are positioned with their backs to the targets, facing the instructor up-range. The instructor will command all shooters to walk at a normal pace, directly away from the targets. Upon the command "left," "right," or "center," the student must again turn around safely while establishing a firm grip on the weapon.

Then, once stable, the student must quickly draw and fire 2 rounds at the designated circle on the "called" target ("L," "R," "C"). Then, the shooter, while still facing the targets, must safely reholster, turn around to face up range, and continue the exercise. Each two-round pair must be fired within ~~four~~ 4 seconds of the called command. Direction commands will be called at 3-5 yards, 5-7 yards, and then 8-10 yards.

5. Stage Five: Judgmental shooting. This drill combines the skills developed in the prior four stages. The shooter will be required to safely turn and fire at a "photograph" type target which may be either friendly or hostile. It requires hostile targets to be stopped using deadly force. Necessity (immediate jeopardy) is presumed for this exercise. This stage allows the instructor to evaluate the decision-making capability of the student as well as his shooting accuracy and safety.

Shooter is placed on the 10-yard line facing the instructor with the target to his rear. The target will be placed at any location along the range target line and should not be seen by the student until he is given the "turn" command during the drill. Each shooter has the opportunity to complete this drill four times. Each decision is worth one point. If he shoots at a hostile target, a hit anywhere on that target will score the point. If a friendly target is presented, it is clearly a no-shoot situation and the student should merely holster safely to score the point. There is a ~~four-second~~ 4-second time limit at this stage for any "shoot" situation.

The instructor will allow each shooter two opportunities to complete this drill and place two targets downrange for each. Four points or hits are still necessary at this stage for the total score. If two targets are used, then the time limit is raised to ~~six~~ 6 seconds, regardless of whether two hostile targets are used or one hostile with one friendly.

## **6VAC20-171-395. Entry-level patrol rifle training.**

A. Patrol rifle classroom training. Individual must first successfully complete security officer handgun training. The entry-level patrol rifle classroom instruction will emphasize but not be limited to:

### 1. Rifle handling techniques

a. Nomenclature/identification of rifle parts

b. Field ~~stripping~~ stripping and reassembling

c. Loading and unloading

d. ~~Cruiser carry conditions~~

e. ~~Cruiser safe~~

f. d. Chambering

g. e. Reloading

h. f. Slings

(1) Traditional sling

(2) Single point sling

(3) 3 Point sling

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# Regulations

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~~i.~~ g. Transition from handgun to rifle/rifle to handgun

~~j.~~ h. Malfunctions

~~k.~~ i. Immediate actions procedures

~~l.~~ Feedway clearance procedures ~~j.~~ Remedial action

~~m.~~ k. Proper care and maintenance

~~n.~~ l. Rifle retention

~~o.~~ m. Ammunition management and identification

~~p.~~ n. Range safety

~~q.~~ o. Dim light/low light

## 2. Fundamentals of rifle marksmanship

a. Grip

b. Stance (position)

c. Sight alignment

d. Sight picture

e. Trigger control

f. Breathing

g. Follow through

## 3. Zeroing iron sights

a. Establishing mechanical zero

b. Zeroing process

## 4. Dim light shooting

a. Hours of darkness/dim light

b. Identification requirements

c. Unaided reduced light shooting techniques

d. Aided reduced light shooting techniques

## 5. Shooting positions

a. Fundamentals of shooting positions

b. Basic patrol positions

## 6. Use of force

## 7. Criminal and civil liability

## ~~8.~~ Judgmental shooting

## ~~9.~~ 8. Written comprehensive examination

Total hours (excluding examination) ~~24 hours~~ 16 hours

B. Range qualification (no minimum hours). The purpose of the range firing course is to provide practical patrol rifle training and qualification to those individuals who carry or have immediate access to a patrol rifle in the performance of their duties with the sighting system that will be carried on duty.

### C. Patrol rifle qualification course.

1. All rifle qualification will be done with a law-enforcement type and caliber rifle. A total of 60 rounds of ammunition will be fired for rifle qualification.

2. All rifle qualification firing will be done with a tactical (not parade) style sling mounted iron sights. In addition, if

an officer is using an optic while on the rifle and utilized by the shooter duty, they must qualify with that optic.

3. All indoor rifle qualification firing will be done at a range that accommodates a distance of 25 yards between the shooter and the target. No variances of this distance are allowed. The indoor target system will contain two targets per shooter mounted side by side. The targets will be FBI Q-R, half-sized silhouette targets. Use of this target type will simulate shooting at 50 yards.

4. All outdoor rifle qualification firing will be done at 50 yards using the FBI Q silhouette full-sized targets. Two of these targets will be mounted side by side for each shooter.

5. FBI Q silhouette targets are used for rifle qualification, scoring will be all hits inside the bottle – value 5 points; outside the bottle – value 0 points. With these targets a maximum score of 300 points is possible. Minimum qualification is 85% or 255 points.

### D. Patrol rifle course of fire.

1. All shooter Prior to qualification, all shooters are required to fire at a minimum of 30 familiarization rounds which will include transition drills from handgun to rifle and rifle to handgun. Shooters will fire a minimum of 10 rounds with a handgun. This exercise is not scored and the distance is at the discretion of the instructor.

2. Stage 1; 50 yards/25 yards (indoors) – Shooters will load their rifle with a magazine of 20 rounds and place the selector on safe. From the standing position with the rifle in the sling carry position, on command the shooters will fire 5 rounds from the standing position, place the selector on safe, assume a kneeling position and fire 5 rounds, place the selector on safe shooter will assume the prone position, the shooter will fire 10 rounds. All 20 rounds of this stage will be fired at the left hand target. (1 minute) When firing is complete shooters will place the selector on safe and await further command.

3. Stage 2; 25 yards – Shooters will load their rifle with a magazine of 15 rounds and place the selector on safe. From the standing position with the rifle in the sling carry position, on command the shooters will fire 5 rounds from the standing position, place the selector on safe, assume a kneeling position and fire 5 rounds, place the selector on safe shooter will assume the prone position, the shooter will fire 5 rounds. All 15 rounds of this stage will be fired at the right hand target. (45 seconds) When firing is complete shooters will place the selector on safe and await further command.

4. Stage 3; 15 yards - On command shooters will assume the standing position and load rifle with a magazine of 10 rounds. On command shooters will fire 5 rounds at the right-hand target, place the selector on safe, assume the kneeling position and fire 5 rounds at the left-hand target in 15 seconds.

5. Stage 4; 7 yards - On command shooters will load rifle with a magazine of 20 rounds, selector in the safe position, and then place the rifle in the sling carry position. On command shooters will fire 2 rounds into the right target with a 2 second time limit. Upon completion of firing shooters will place the selector on safe and the rifle in the sling carry position. This exercise will be fired 5 times with a total of 10 rounds expended.

6. Stage 5; 5 yards - On command shooters will load rifle with a magazine of 5 rounds, selector in the safe position, and then place the rifle in the sling carry position. On command shooters will fire 1 round into the left target head with a 2 second time limit. Upon completion of firing shooters will place the selector on safe and the rifle in the sling carry position. This exercise will be fired 5 times with a total of 5 rounds expended.

E. Low light/dim light qualification course of fire.

7 yards - Under low-light conditions, on command shooters will fire 5 rounds at the left target, place the selector in the safe position, assume the kneeling position and fire 5 rounds at the right target. A time limit of 1 minute is allowed for this stage.

**6VAC20-171-400. Firearms (handgun/shotgun) retraining.**

A. All armed private security services business personnel with the exception of personal protection specialists must satisfactorily complete two 4 hours of firearms classroom training or practical exercises and range training, and requalify as prescribed in 6VAC20-171-370 6VAC20-171-376 B and C for handgun, [ Firearms instructors who have received prior approval from the department may substitute the alternative course specified in 6VAC20-171-370 D and the low light course specified in 6VAC20-171-370 C for requalification firing with a semi automatic handgun. ] and 6VAC20-171-380 for shotgun, if applicable, on an annual basis prior to the issuance of the Firearms Endorsement, as follows:

1. Classroom retraining or practical exercises — 2 hours
2. Range qualification with handgun and/or shotgun, if applicable (no minimum hours)

Total hours (excluding range qualification) — 2 hours

B. Requalification training with the shotgun shall be comprised of 4 hours 3 hours of classroom training or practical exercises and range training and requalification firing as specified in 6VAC20-171-380 B.

C. Requalification training with the patrol rifle shall be comprised of 4 hours of firearms classroom training or practical exercises and range training and requalification firing as specified in 6VAC20-171-395 for patrol rifle.

D. All applicable firearms retraining must be completed and documented with the department on an annual basis prior to the issuance of a firearms endorsement.

**6VAC20-171-420. Advanced handgun retraining.**

All armed private security services business personnel registered in the category of personal protection specialist or other armed category seeking advanced handgun designation must satisfactorily complete advanced handgun retraining, which includes eight hours of firearms classroom training and range training, and requalify as prescribed in 6VAC20-171-390 C for handgun ~~within the 12 month period immediately preceding the expiration date of his registration~~ as follows:

1. Legal authority and decision making —4 hours
  2. Handgun safety, marksmanship and skill development – 4 hours
  3. Completion of advanced handgun course of fire
- Total Hours (excluding range qualification) – 8 hours

**Article 3**

**Security Canine Handler Training Requirements**

**6VAC20-171-430. Entry level security canine handler training. (Repealed.)**

~~A. Prerequisites for security canine handler entry level (official documentation required):~~

- ~~1. Successful completion of the security officer core subjects curriculum — 18 hours; and~~
- ~~2. Successful completion of basic obedience training.~~

~~B. Following successful completion of the above prerequisites, each security canine handler must also comply with the following requirements:~~

- ~~1. Demonstration of proficiency. The student must demonstrate his proficiency in the handling of a security canine to satisfy the minimum standards — 2 hours~~
- ~~2. Evaluation by a certified private security canine handler instructor and basic obedience retraining~~
- ~~3. Security canine handler orientation/legal authority — 4 hours~~
- ~~4. Canine patrol techniques — 6 hours~~
- ~~5. Written examination~~

~~Total hours (excluding examinations) — 30 hours~~

**6VAC20-171-440. Security canine handler retraining. (Repealed.)**

~~Each security canine handler registrant shall comply annually with the requirement for basic obedience evaluation and retraining (Refer to 6VAC20-171-430).~~

- ~~1. Applicable sections of the Code of Virginia and DCJS regulations — 1 hour~~
- ~~2. Security canine handler basic obedience evaluation and retraining — 4 hours~~
- ~~3. Canine grooming, feeding, and health care — 1 hour~~
- ~~4. Apprehension techniques — 1 hour~~
- ~~5. Obedience — 1 hour~~

~~Total hours — 8 hours~~

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## Article 4 ~~3~~ Training Exemptions

### **6VAC20-171-445. Training exemptions.**

Persons who meet the statutory requirements as set forth in § 9.1-141 of the Code of Virginia may apply for a partial exemption from the compulsory training standards. Individuals requesting such partial exemption shall file an application furnished by the department and include the applicable, nonrefundable application fee. The department may issue such partial exemption on the basis of individual qualifications as supported by required documentation. Those applying for and receiving exemptions must comply with all regulations promulgated by the board. Each person receiving a partial exemption [ for entry-level training ] must apply to the department for registration within 12 months from the date of issuance, otherwise the partial exemption shall become null and void.

### **[ 6VAC20-171-460. In-service training exemption.**

Persons who have completed training which meets or exceeds the compulsory minimum training standards promulgated by the board for the in-service training required for the individual's particular category may be authorized credit for such training, provided the training has been completed within ~~12~~ 24 months of the expiration date of the registration period during which in-service training is required. Such training must be provided by a third party organization category. Official documentation of the following must accompany the application for in-service training credit:

1. Information regarding the sponsoring organization, including documentation regarding the instructor for each session; ~~and~~
2. An outline of the training session material, including the dates, times and specific subject matter; ~~and~~ and
3. Proof of attendance and successful completion.

### **6VAC20-171-470. Prior firearms training exemption.**

Persons having previous department-approved firearms training may be authorized credit for such training which meets or exceeds the compulsory minimum training standards for private security services business personnel, provided such training has been completed within the 12 months preceding the date of application. Official documentation of the following must accompany the application for partial ~~in-~~ service training credit:

1. Completion of department-approved firearms training; and
2. Qualification at a Virginia criminal justice agency, academy or correctional department. ]

## Article 2 Department Action/Sanctions

### **6VAC20-171-500. Disciplinary action; sanctions; publication of records.**

A. Each person subject to jurisdiction of this chapter who violates any statute or regulation pertaining to private security services shall be subject to sanctions imposed by the department regardless of criminal prosecution.

B. The department may impose any of the following sanctions, singly or in combination, when it finds the respondent in violation or in noncompliance of the Code of Virginia or of this chapter:

1. Letter of reprimand or censure;
2. Probation for any period of time;
3. Suspension of license, registration, certification, or approval granted, for any period of time;
4. Revocation;
5. Refusal to issue, renew or reinstate a license, registration, certification or approval;
6. Fine not to exceed \$2,500 per violation as long as the respondent was not criminally prosecuted;
7. Remedial training; ~~or~~
8. Conditional agreements.

C. The department may conduct hearings and issue cease and desist orders to persons who engage in activities prohibited by this chapter but do not hold a valid license, certification or registration. Any person in violation of a cease and desist order entered by the department shall be subject to all of the remedies provided by law and, in addition, shall be subject to a civil penalty payable to the party injured by the violation.

D. The director may summarily suspend a license, certification or registration under this chapter without a hearing, simultaneously with the filing of a formal complaint and notice for a hearing, if the director finds that the continued operations of the licensee or registrant would constitute a life-threatening situation, or has resulted in personal injury or loss to the public or to a consumer, or which may result in imminent harm, personal injury or loss.

E. All proceedings pursuant to this section are matters of public record and shall be preserved. The department may publish a list of the names and addresses of all persons, licensees, firms, registrants, training schools, school directors, compliance agents and licensed firms whose conduct and activities are subject to this chapter and have been sanctioned or denied licensure, registration, certification or approval.

### **6VAC20-171-550. Appeals.**

The findings and the decision of the director may be appealed to the board provided that written notification is given to the attention of the Director, Department of Criminal Justice Services, ~~805 East Broad Street, Richmond, Virginia~~

23219, within 30 days following the date notification of the hearing decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the hearing decision is served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

**6VAC20-171-560. Court review; appeal of final agency order.**

A. The agency's final administrative decision (final agency orders) may be appealed. Any person affected by, and claiming the unlawfulness of the agency's final case decision, shall have the right to direct review thereof by an appropriate and timely court action. Such appeal actions shall be initiated in the circuit court of jurisdiction in which the party applying for review resides; save, if such party is not a resident of Virginia, the venue shall be in the city of Richmond, Virginia.

B. Notification shall be given to the attention of the Director, Department of Criminal Justice Services, 805 East Broad Street, Richmond, Virginia 23219, in writing within 30 days of the date notification of the board decision was served, or the date it was mailed to the respondent, whichever occurred first. In the event the board decision was served by mail, three days shall be added to that period. (Rule 2A:2 of Rules of the Virginia Supreme Court.)

C. During all judicial proceedings incidental to such disciplinary action, the sanctions imposed by the board shall remain in effect, unless the court issues a stay of the order.

**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 of a form with a hyperlink to access it. 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.

**FORMS (6VAC20-171)**

~~[ Irrevocable Consent for Service Form, PSS IC (eff. 2/00). PSS IRC (eff. 5/07).~~

~~Fingerprint Processing Application, PSS FP (eff. 2/00). (eff. 3/08).~~

~~Initial Compliance Agent Training and Certification, PSS CA (eff. 2/00). (eff. 3/08).~~

~~Initial Business License Application, PSS LA (eff. 2/00). (eff. 3/08).~~

~~Renewal Business License Application, PSS LR (eff. 2/00). (eff. 3/08).~~

~~Initial Private Security Registration Application, PSS RA (eff. 2/00). (eff. 3/08).~~

~~Renewal Private Security Registration Application, PSS RR (eff. 2/00). (eff. 3/08).~~

~~Partial Training Exemption Application for Entry Level Training, PSS WA Entry (eff. 2/00). (eff. 3/08).~~

~~In Service Alternative Credit Application Instructions, PSS WA In Service (eff. 5/07).~~

~~Training Completion Roster Application, PSS SA1 (eff. 2/00). PSS TCR (eff. 5/07).~~

~~Initial Private Security Instructor Certification Application Instructions, PSS IA (eff. 2/00). (eff. 1/07).~~

~~Renewal Private Security Instructor Application, PSS IR (eff. 2/00). (eff. 5/07).~~

~~Private Security Services Complaint Form, PSS C (eff. 2/00). (eff. 5/07).~~

~~Duplicate/Replacement Photo ID Application, PSS MP2 (eff. 2/00).~~

~~General Instructor Entry Level Training Enrollment, PSS GE (eff. 2/00). (eff. 5/07).~~

~~Compliance Agent In Service Training Enrollment, PSS CT (eff. 2/00). (eff. 5/07).~~

~~Training Completion Form, PSS TCF (eff. 2/00). (eff. 8/05).~~

~~Initial Private Security Certification Application, PSS UA (eff. 2/00).~~

~~Renewal Private Security Certification Application, PSS UR (eff. 2/00).~~

~~Additional Registration Category Application, PSS MP1 (eff. 2/00). PSS ARC (eff. 3/08).~~

~~Training Session Notification Form, PSS TN (eff. 2/00). PSS TSN (eff. 5/07).~~

~~Initial Training School Application, PSS TA (eff. 2/00). (eff. 5/07).~~

~~Renewal Training School Application, PSS TR (eff. 2/00). (eff. 5/07).~~

~~General Instructor In-Service Training Enrollment, PSS GI (eff. 2/00). (eff. 5/07).~~

~~Personal Protection Specialist Advanced Firearms Instructor Entry Level Training Enrollment, PSS PPSFI (eff. 2/00).~~

~~Private Security Firearms Instructor Entry Level Training Enrollment, PSS FE (eff. 2/00).~~

~~Firearm Discharge Report, PSS FR (eff. 2/00). (eff. 5/07).~~

~~Firearms Instructor In Service Training Enrollment, PSS FI (eff. 2/00). (eff. 5/07).~~

~~Business or Training School Address Change Form, PSS AC2 (eff. 3/08).~~

~~Private Security Services Bond, PSS BD (eff. 5/07).~~

~~Compliance Agent Designation/Removal Form, PSS CD (eff. 3/08).~~

~~Additional Private Security License Category Application, PSS LC (eff. 3/08).~~

~~Compliance Agent Certification Application and Online Training Exemption Form, PSS WC (eff. 5/07).~~

~~Criminal History Supplemental Form, PSS CHS (eff. 3/08).~~

~~Criminal History Waiver Application, PSS CHW (eff. 3/08).~~

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~~[Locksmith Experience Verification for Entry Level Training Waiver - No Fee, PSS LTW \(eff. 3/08\).](#)~~

~~[Request for Extension Form, PSS ER \(eff. 5/07\).](#)~~

~~[Individual Address Change Form, PSS IAC \(eff. 5/07\).](#)~~

~~[Firearms Endorsement Application, PSS RF \(eff. 3/08\).](#)~~

~~[Training School Staff Change Form, PSS SC \(eff. 4/07\).](#)~~

~~[School Director Designation and Acceptance Form, PSS SD \(eff. 5/07\).](#)~~

~~[Electronic Roster Submittal Authorization Application, PSS SR \(eff. 5/07\).](#)~~

~~[Training School Add Category Form - No Fee, PSS TSAC \(eff. 3/08\).](#)~~

## **Business**

[Private Security Services - Business Compliance Inspection Form \(eff. 10/12\)](#)

[Private Security Services - Irrevocable Consent for Service Form \(eff. 10/12\)](#)

[Private Security Services - Initial Business License Application \(eff. 10/12\)](#)

[Private Security Services - Renewal Business License Application \(eff. 10/12\)](#)

[Private Security Services - Bond \(eff. 10/12\)](#)

[Private Security Services - Compliance Agent Designation and Acceptance Form \(eff. 10/12\)](#)

[Private Security Services - Additional License Category Application \(eff. 10/12\)](#)

[Private Security Services - Address Change Form for Businesses \(eff. 10/12\)](#)

## **Compliance Agent**

[Compliance Agent - Training and Certification \(eff. 10/12\)](#)

[Compliance Agent - In-Service Training Enrollment \(eff. 10/12\)](#)

[Compliance Agent - Certification Application and Online Training Exemption Form \(eff. 10/12\)](#)

## **Instructor**

[Private Security Services - Firearms Instructor In-Service Training Enrollment \(eff. 10/12\)](#)

[Private Security Services - General Instructor Entry Level Training Enrollment \(eff. 10/12\)](#)

[Private Security Services - General Instructor In-Service Training Enrollment \(eff. 10/12\)](#)

[Private Security Services - Initial Instructor Application \(eff. 10/12\)](#)

[Private Security Services - Renewal Instructor Application \(eff. 10/12\)](#)

## **Registration**

[Private Security Services - Duplicate/Replacement Registration Application \(eff. 10/12\)](#)

[Private Security Services - Initial Registration Application \(eff. 3/13\)](#)

[Private Security Services - Renewal Registration Application \(eff. 3/13\)](#)

[Private Security Services - Additional Registration Category Application \(eff. 10/12\)](#)

[Private Security Services - Firearms Endorsement Application \(eff. 10/12\)](#)

## **Training School**

[Private Security Services - Initial Training School Application \(eff. 2/13\)](#)

[Private Security Services - Training Completion Form \(eff. 10/12\)](#)

[Private Security Services - Training Session Notification Form \(eff. 10/12\)](#)

[Private Security Services - Renewal Training School Application \(eff. 10/12\)](#)

[Private Security Services - Training School Compliance Inspection Form \(eff. 10/12\)](#)

[Private Security Services - Training Completion Roster Application \(eff. 10/12\)](#)

[Private Security Services - Subject Matter Specialist and Guest Lecturers Form \(eff. 10/12\)](#)

[Private Security Services - Bond \(eff. 10/12\)](#)

[Private Security Services - Irrevocable Consent for Service Form \(eff. 10/12\)](#)

[Private Security Services - Address Change Form for Schools \(eff. 10/12\)](#)

[Private Security Services - School Director Designation and Acceptance Form \(eff. 10/12\)](#)

[Private Security Services - School Staff Change Form \(eff. 10/12\)](#)

[Private Security Services - Training School Add Category Form \(eff. 10/12\)](#)

## **Fingerprint Processing**

[DCJS Fingerprint Cards Order Form \(undated\)](#)

[Fingerprint Processing Application \(eff. 10/12\)](#)

[Criminal History Supplemental Form \(eff. 10/12\)](#)

[Fingerprint Application Instructions \(eff. 10/12\)](#)

[Acceptable Documents for Verifying Legal Presence/Name Change \(eff. 10/12\)](#)

## **Miscellaneous**

[Locksmith - Training Waiver \(eff. 10/12\)](#)

[Complaint Form \(eff. 10/12\)](#)

[Firearms Discharge Report \(eff. 10/12\)](#)

[Partial Training Exemption Application - Entry Level \(eff. 10/12\)](#)

[Partial Training Exemption Application - In-Service \(eff. 10/12\)](#)

[Request for Extension Form \(eff. 10/12\)](#)

[Individual Address Change Form \(eff. 10/12\)](#)

[Credit Card Authorization Form \(eff. 10/12\)](#) ]

V.A.R. Doc. No. R09-1546; Filed June 17, 2013, 1:34 p.m.

## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Proposed Regulation

**Title of Regulation: 8VAC20-740. Regulations Governing Nutritional Guidelines for Competitive Foods Sold in the Public Schools (adding 8VAC20-740-10 through 8VAC20-740-40).**

**Statutory Authority:** § 22.1-207.4 of the Code of Virginia.

**Public Hearing Information:**

October 24, 2013 - Immediately following adjournment of the 11 a.m. Board of Education business meeting - James Monroe Building, 101 North 14th Street, 22nd Floor Conference Room, Richmond, VA

**Public Comment Deadline:** October 31, 2013.

**Agency Contact:** Catherine Digilio-Grimes, Director of School Nutrition Programs, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2074, or email catherine.digilio-grimes@doe.virginia.gov.

**Basis:** Section 22.1-207.4 of the Code of Virginia requires the Board of Education, in cooperation with the Department of Health, to promulgate and periodically update regulations setting nutritional guidelines for all competitive foods sold to students during regular school hours that are not part of the federal school lunch or school breakfast program.

**Purpose:** Chapter 718 of the 2010 Acts of Assembly requires in the development and implementation of the regulations regarding nutritional guidelines. The rising rate of childhood obesity has become a major health concern because of both its impact on childhood health and as a contributing factor to the development of chronic disease in adulthood. In response to this growing concern, attention has focused on the need to establish nutrition standards for foods in schools by offering healthier food options on school grounds. From a nutritional perspective, the goal is to increase the consumption of whole grains, fruits, vegetables, and nonfat or low-fat dairy, and reduce fat, sugars, and sodium. Federal regulations governing the national school lunch program, school breakfast program, and afterschool snack program establish nutrition standards for school meals and snacks, and strengthened federal nutrition standards are pending. Nutritional standards for competitive foods can complement the federal school meal nutrition standards for an overall healthier eating environment

in schools. In addition, it is anticipated the U.S. Department of Agriculture will establish nutritional standards for competitive foods in schools.

**Substance:** The proposed regulation sets nutritional standards for competitive foods sold to students on school grounds during regular school hours in the areas of calorie, fat, sugar, and sodium content, and foods of minimal nutritional value. Competitive food means any food, excluding beverages, sold to students on school grounds during regular school hours, that is not part of the school breakfast or school lunch programs. In the school setting, these are typically food items sold to students as a la carte items in the cafeteria, in vending machines, in school stores or snack bars, and through other school activities. Beverages are not included in the definition of competitive food. In addition, food items served or provided, but not sold, to students, or those sold outside regular school hours or off school grounds, are outside the purview of the regulations.

The guidelines are based on the Institute of Medicine's (IOM) nutrition standards for competitive foods in schools.

In addition, a local school board must adopt the state guidelines set forth in the regulation as part of its existing local wellness policy and annually report on the status of the development and implementation of the policy to the Department of Education.

**Issues:** Nutritional standards for competitive foods can complement the federal school meal nutrition standards for an overall healthier eating environment in schools.

Additionally, the rising rate of childhood obesity has become a major health concern because of both its impact on childhood health and as a contributing factor to the development of chronic disease in adulthood. In response to this growing concern, attention has focused on the need to establish nutrition standards for foods in schools by offering healthier food options on school grounds. Federal regulations governing the national school lunch program, school breakfast program, and afterschool snack program establish nutrition standards for school meals and snacks, and strengthened federal nutrition standards are pending. In addition, it is anticipated the U.S. Department of Agriculture will establish nutritional standards for competitive foods in schools.

Statewide nutritional guidelines for competitive foods sold to students during the school day would strengthen the local wellness policies and help address some of the factors that impact childhood obesity, as well as increase the nutritional quality of foods offered in the school setting.

The adopted regulations could affect a school's ability to continue to sell certain competitive food items to students. School divisions will be required to adopt the nutritional guidelines contained in the regulation as part of their local wellness policies.

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Potential disadvantages associated with this regulation to the public and regulated community include the following: (i) school divisions will be impacted administratively, as they will be required to adopt the new state nutritional guidelines as part of their required local wellness policies; (ii) with newly released (June 27, 2013) Interim Federal regulations for Nutrition Standards for All Foods Sold in School, schools and vendors to the schools may have two sets of regulatory requirements to follow, which may conflict, and (iii) as schools change the food offerings on the school site during the school day to meet the adopted nutritional guidelines, they may experience financial impact. Disadvantages to the Commonwealth and agency include the following: (i) the Department of Education will be required to ensure compliance with both state and newly published federal regulations with different provisions, and (ii) the department may need to provide additional ongoing staff support and technical assistance to school divisions in the implementation of these regulations.

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

Summary of the Proposed Amendments to Regulation. Senate Bill 414 (2010 Acts of Assembly) amended the Code of Virginia by adding Section 22.1-207.4 on nutritional guidelines for competitive foods. The legislation requires the Board of Education (Board), in cooperation with the Department of Health, to promulgate and periodically update regulations setting nutritional guidelines for all competitive foods sold to students during regular school hours that are not part of the federal school lunch or school breakfast program. The term competitive foods refers to food items served in the school setting outside of planned meals under the federal school lunch and school breakfast programs, and which may compete with foods served under the federal programs. Further, the legislation specifies "That in promulgating its regulations pursuant to this act, the Board of Education shall adopt either the Alliance for a Healthier Generation's Competitive Foods Guidelines or the Institute of Medicine's Recommended Standards for Competitive Foods in Schools as the initial statewide standard for competitive foods." Pursuant to the legislation, the Board proposes the maximum calorie, fat, sugar, and sodium content for competitive foods contained within the Institute of Medicine's Recommended Standards for Competitive Foods in Schools.

In addition, federal regulations require every school division to have wellness policies that address nutrition and physical activity. The content and implementation of these policies have been at the discretion of the local school divisions. The proposed regulations would require each local school board to adopt the state nutrition guidelines as part of their existing local wellness policies.

Result of Analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs.

Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact. At present, there is no federal regulation for competitive foods sold in schools. The U.S. Department of Agriculture is in the process of developing nutrition standards for competitive foods, as authorized under the 2010 federal legislation that reauthorizes the federal school meal programs (Healthy, Hunger-Free Kids Act of 2010). It is expected that the Institutes of Medicines standards will be the basis for the federal regulations,<sup>1</sup> and that the federal regulations will be in place for the 2013-2014 academic year.

In order to be consistent with the expected federal regulations, the Board proposes to adopt the Institute of Medicine's Recommended Standards. These proposed regulations will likely be in effect prior to the federal regulations, and will thus likely have significant impact. Additionally, if the standards in the federal regulations turn out to differ in any attributes from Virginia's standards, whichever standard is more stringent applies. School divisions that do not comply with the standards would presumably be at risk of losing federal funds associated with the federal school lunch and school breakfast programs.

In practice it is common for schools to sell a la carte food items in addition to planned meals under the federal school lunch and school breakfast programs. An a la carte item means an individually priced food item served by the local school nutrition department that may or may not be part of the reimbursable meal under the federal child nutrition programs. A la carte items as well as food sold in vending machines and other food sold to students during regular school hours, including fundraisers, are subject to the maximum calorie, fat, sugar, and sodium content values in these proposed regulations. Beverages are exempt from the standards.

Most if not all school divisions sell competitive foods. The proposed standards will likely prohibit the sale of much of the competitive foods currently sold in most divisions. Thus, students throughout the Commonwealth will likely consumer fewer foods during the school day that are high in calories, fat, sugar, and sodium. This may result in improved health for Virginia's schoolchildren. On the other hand it may have some negative consequences on revenues for schools. For example, one Virginia school division that on its own decided to stop selling french fries has noticed an associated decrease in food sale revenue. This anecdotal example is countered though by a study<sup>2</sup> published in the Journal of School Health which found that "Thus far, few data exist to substantiate the concern that changes in nutrition standards in schools lead to a loss in total revenue." An interesting phenomenon of increased participation in the National School Lunch Program was noted in a number of reports and might play a role in buffering financial losses.

At least some firms and farms which produce foods that meet the proposed standards for competitive food will likely encounter greater demand for their products. For example, standard hamburgers currently provided to schools do not meet the proposed standards, but healthier hamburgers which do meet the proposed standards and cost 20 percent more are commercially available.<sup>3</sup> Of course at least some other firms and farms which produce foods that do not meet the proposed standards for competitive food will likely encounter lesser demand for their products. Since Virginia school divisions all together comprise a significant market, there will likely be some adjustment in food production to meet the changed demand. Once the federal regulations are in place, the incentive for food manufacturers to adjust their products to meet the standards will be even greater given the market for schools nationwide.

**Businesses and Entities Affected.** The proposed regulations affect the 132 public school divisions in the Commonwealth as well as food producers and distributors which supply schools with food.

**Localities Particularly Affected.** The proposed regulations do not disproportionately affect particular localities.

**Projected Impact on Employment.** At least some firms and farms which produce foods which meet the proposed standards for competitive food will likely encounter greater demand for their products. These firms may hire new workers. Other firms and farms which produce foods that do not meet the proposed standards for competitive food will likely encounter lesser demand for their products. These firms may layoff workers.

**Effects on the Use and Value of Private Property.** The value of firms which produce foods which meet the proposed standards for competitive food may increase. The value of firms which produce foods that do not meet the proposed standards for competitive food may decrease.

**Small Businesses: Costs and Other Effects.** Small businesses which produce foods that are sold to schools and do not meet the proposed standards are likely to lose demand for their products. Depending on the product, it may be possible to adjust the product to meet the proposed standards. That would likely add to the costs, though.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** Adverse impact on small businesses could potentially be lessened with less stringent proposed standards. That would of course likely reduce to some degree the intended benefit of healthier food consumption.

**Real Estate Development Costs.** The proposed regulations are unlikely to affect real estate development costs.

**Legal Mandate.** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 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.

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<sup>1</sup> Source: Virginia Department of Education

<sup>2</sup> Wharton CM, Long M, Schwartz MB. Changing nutrition standards in schools: the emerging impact on school revenue. *J Sch Health*. 2008; 78: 245-251.

<sup>3</sup> Source: a Virginia-based food distributor which currently serves several school divisions

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

Summary:

*Consistent with Chapter 718 of the 2010 Acts of Assembly and the core nutrition components in the Institute of Medicine's nutrition standards for competitive foods in schools, the proposed regulations set nutritional standards for competitive foods sold to students in the areas of calorie, fat, sugar, and sodium content, and foods of minimal nutritional value.*

CHAPTER 740

REGULATIONS GOVERNING NUTRITIONAL  
GUIDELINES FOR COMPETITIVE FOODS SOLD IN  
THE PUBLIC SCHOOLS

8VAC20-740-10. Definitions.

"A la carte item" means an individually priced food item served by the local school nutrition department that may or may not be part of the reimbursable meal under the federal Child Nutrition Programs.

"After school activities" means activities that occur on school grounds after regular school hours.

"Beverage" means a drinkable liquid.

"Calorie" means the amount of heat required to change the temperature of one gram of water from 14.5 degrees Celsius to 15.5 degrees Celsius. Calorie is used synonymously with

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kilocalorie as a unit of measure for energy obtained from food and beverages.

"Child Nutrition Programs" means school meal programs funded and regulated by the U.S. Department of Agriculture (USDA) and includes the National School Lunch Program (NSLP), School Breakfast Program (SBP), Child and Adult Care Food Program (CACFP), Summer Food Service Program (SFSP), and Special Milk Program (SMP).

"Competitive food" means any food, excluding beverages, sold to students on school grounds during regular school hours that is not part of the reimbursable meals served through the National School Lunch Program (NSLP), School Breakfast Program (SBP), or Afterschool Snack Program (ASP).

Competitive food includes all foods sold to students:

1. In school cafeterias as a la carte items not offered as a component of the planned reimbursable menu.
2. In vending machines located on school grounds during regular school hours.
3. As fundraisers held on school grounds during regular school hours.
4. In school snack bars on school grounds during regular school hours.
5. In school stores operated on school grounds during regular school hours by the school, a student association, or other school-sponsored organization.
6. At school activities such as special fundraisers, achievement rewards, classroom parties, school celebrations, classroom snacks, or school meetings held on school grounds during regular school hours.

This term does not apply to food a student brings from home for consumption at school.

"Dietary Guidelines for Americans" means guidelines jointly issued by the U.S. Department of Health and Human Services and U.S. Department of Agriculture and revised every five years and that provide authoritative advice based on current scientific evidence and medical knowledge for people two years of age and older about how good dietary habits can promote health and reduce risk for major chronic diseases.

"Food of minimal nutritional value" or "FMNV" means foods and beverages that are restricted by the U.S. Department of Agriculture (7 CFR 210.11(a)(2) and subsection (a) of Appendix B to 7 CFR Part 210 Definition) unless specifically exempted by USDA. The federal FMNV definition is limited to the following four specific categories of foods and beverages:

1. Soda water (any carbonated or aerated beverages, i.e., beverages that are labeled as "aerated" or that bubble and fizz for several minutes after opening).
2. Water ices (any frozen, sweetened water such as "...sicles" and flavored ice with the exception of products

that contain fruit, fruit juice, milk, milk ingredients, or egg ingredients other than egg whites).

3. Chewing gum (regular and sugarless).

4. Certain candies (regular and sugarless), including:

- a. Hard candy (e.g., sour balls, candy sticks, lollipops, starlight mints, after-dinner mints, sugar wafers, rock candy, cinnamon candy).
- b. Jellies and gums (e.g., gum drops, jelly beans, and jellied and fruit-flavored slices and shapes).
- c. Marshmallow candies, fondant, such as candy corn and soft mints, licorice, spun candy, and candy coated popcorn.

"Kcal" means kilocalorie, commonly known as calorie, which is a unit of measure in the United States for energy obtained from food and beverages. A kilocalorie is equal to 1,000 calories.

"Obesity" means obesity in children and adolescents referring to the age-specific and sex-specific body mass index (BMI) that is equal to or greater than the 95th percentile of the BMI charts of the Centers for Disease Control and Prevention (CDC).

"Regular school hours" means the same as the standard school day, as defined in 8VAC20-131-5, a calendar day that averages at least five and one-half instructional hours for students in grades 1 through 12, excluding breaks for meals and recess, and a minimum of three instructional hours for students in kindergarten. Regular school hours does not include school-related activities or events that occur either before or after the standard school day, such as clubs, yearbook, band and choir practice, student government, drama, childcare programs, interscholastic sporting events, school plays, band concerts, or other school-related programs.

"School food authority" or "SFA" means, under the federal child nutrition laws, the entity that is legally responsible for the operations and administration of the local school nutrition programs (i.e., school division).

"School Health Advisory Board" or "SHAB" means an entity formed according to the provisions of § 22.1-275.1 of the Code of Virginia that assists in the development of wellness policies as required by § 204 of Public Law 108-265 (42 USC § 1751 et seq.) and develops an annual report of activities that is required to be submitted to the Department of Education.

"Trans fat" means food items containing vegetable shortening, margarine, or any partially hydrogenated vegetable oil unless the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 grams per serving.

"Wellness policy" means a policy required for public schools participating in a nutrition program authorized by the Richard B. Russell National School Lunch Act (42 USC

§ 1751 et seq.) or the Child Nutrition Act of 1966 (42 USC § 1771 et seq.).

**8VAC20-740-20. Applicability.**

A. This regulation shall apply to all public school divisions, public schools, and school food authorities (SFAs) in the Commonwealth of Virginia.

B. This regulation shall not apply to beverages.

C. This regulation shall apply to the nutritional content of food items, excluding beverages, sold to students on the school grounds of any public school during regular school hours. It shall include:

1. Foods sold to students in vending machines.
2. Foods sold to students as a la carte items in the school cafeteria.
3. Foods sold to students at snack bars and stores operated by the school, a student association, or other school-sponsored organization.
4. Foods sold to students at school activities such as fundraisers.

D. This regulation shall not apply to the nutritional content of foods and beverages:

1. Provided through the National School Lunch, School Breakfast, and Afterschool Snack programs, as regulated by 7 CFR Part 210 and 7 CFR Part 220.
2. Sold at snack bars, concession stands, or athletic events after regular school hours.
3. Sold either during intermission or immediately before or after athletics events.
4. Sold for school-related fundraising activities that take place off school grounds.
5. Sold during activities that take place after regular school hours, such as clubs, yearbook, band and choir practice, student government, drama, sports practices, interscholastic sporting events, school plays, and band concerts.

**8VAC20-740-30. Nutrition standards.**

Competitive foods sold to students shall support the Dietary Guidelines for Americans by complying with the following nutritional standards:

1. Standard 1: Calories.
  - a. Snack items shall be 200 calories or less per portion or as packaged.
  - b. A la carte entree items shall not exceed calorie limits on comparable National School Lunch Program (NSLP) entrees. A la carte entree items shall not provide more calories or larger portion sizes than the comparable NSLP entree items. In accordance with 8VAC20-290-10, a la carte entree items for sale to students shall be limited to those entree items recognized as being components of the school breakfast program or school lunch program meal patterns.

2. Standard 2: Fat.

a. Snacks and food items shall meet the following criteria for dietary fat per portion or as packaged:

- (1) No more than 35% of total calories from fat.
- (2) Less than 10% of total calories from saturated fats.
- (3) Zero grams of trans fat.

b. Exceptions: Nuts and seeds (allowed as combination products as long as other nutrient standards are met; the fat content will not count against the total fat content of the product).

3. Standard 3: Sugar.

a. Snacks and food items shall provide no more than 35% of calories from total sugars per portion or as packaged.

b. Exceptions:

- (1) 100% fruits and fruit juices in all forms without added sugars.
- (2) 100% vegetables and vegetable juices without added sugars.
- (3) Unflavored nonfat and low-fat (1.0%) milk and yogurt.
- (4) Flavored nonfat and low-fat (1.0%) milk with no more than 22 grams of total sugars per 8-ounce serving.
- (5) Flavored nonfat and low-fat yogurt with no more than 30 grams of total sugars per 8-ounce serving.

4. Standard 4: Sodium.

a. Snack items shall meet a sodium content limit of 200 milligrams or less per portion or as packaged.

b. A la carte entree items recognized as being components of the school breakfast program or school lunch program meal patterns that are not part of the planned reimbursable menu shall meet a sodium content of 480 milligrams or less per portion. Portion sizes for a la carte entree items shall not be larger than the comparable portion size for NSLP entree items.

5. Standard 5: Foods of minimal nutritional value. In accordance with 8VAC20-290-10 and 7 CFR Part 210, all foods of minimal nutritional value (FMNV) as defined in 8VAC20-740-10 shall be prohibited from being sold to students on school grounds during regular school hours.

**8VAC20-740-40. Implementation and compliance.**

A. Each local school board shall adopt these nutrition guidelines as part of its existing local wellness policy.

B. Each local school board shall submit annually to the Department of Education the School Health Advisory Board (SHAB) Progress Report as required by § 22.1-275.1 of the Code of Virginia. This report shall include a status report on the development and implementation of the local wellness policy. This report shall be used by the Department of Education to monitor compliance with this chapter.

VA.R. Doc. No. R11-2611; Filed June 17, 2013, 10:54 a.m.

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## TITLE 9. ENVIRONMENT

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Final Regulation

**REGISTRAR'S NOTICE:** The Department of Environmental Quality is claiming an exemption from the Administrative Process Act in accordance with (i) § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corections of technical errors and (ii) § 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 Department of Environmental Quality will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

**Titles of Regulations:** **9VAC15-20. Guidelines for the Preparation of Environmental Impact Assessments for Oil or Gas Well Drilling Operations in Tidewater Virginia (amending 9VAC15-20-160).**

**9VAC15-40. Small Renewable Energy Projects (Wind) Permit by Rule (amending 9VAC15-40-110).**

**9VAC15-60. Small Renewable Energy Projects (Solar) Permit by Rule (amending 9VAC15-60-110).**

**9VAC15-90. Uniform Environmental Covenants Act Regulation (amending 9VAC15-90-40).**

**Statutory Authority:** § 62.1-195.1 of the Code of Virginia (9VAC15-20-160).

§ 10.1-1197.6 of the Code of Virginia (9VAC15-40-110 and 9VAC15-60-110).

§ 10.1-1250 of the Code of Virginia (9VAC15-90-40).

**Effective Date:** August 14, 2013.

**Agency Contact:** Debra Harris, Planning and Policy Specialist, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4346, or email [debra.harris@deq.virginia.gov](mailto:debra.harris@deq.virginia.gov).

**Summary:**

*The amendments allow for notifications to be delivered through postal or electronic means as required by the statutory change to § 10.1-1183 of the Code of Virginia. Additionally, the amendments update the Department of Environmental Quality mailing address listed in the agency's regulations to the current DEQ address.*

*In accordance with Chapter 348 of the 2013 Acts of Assembly, wherever the term "mail" is used in regulatory provisions that the department administers, it shall mean electronic or postal delivery and the term "certified mail" means electronically certified or postal certified mail,*

*except that this provision shall apply only to the mailing of plan approvals, permits, or certificates issued under the provisions of this chapter and those of the Air Pollution Control Law, the Virginia Waste Management Act, and the State Water Control Law, and only where the recipient has notified the department of his consent to receive plan approvals, permits, or certificates by electronic mail.*

**9VAC15-20-160. Initiation of assessment review by state and local agencies and by the general public.**

A. The Department of Environmental Quality shall prepare and submit a general notice for publication in the Virginia Register within three days of the receipt of an environmental impact assessment. The availability of an assessment shall be given public notice, paid for by the applicant, by publication in a newspaper having a general circulation in the locality where drilling is proposed. The Department of Environmental Quality shall also develop a mailing list containing the names of persons who indicate they want to be notified about the availability of oil or gas environmental impact assessment documents and will forward a copy of the general notice submitted for publication in the Virginia Register to those persons on the mailing list.

B. The general notice will contain the following information:

1. The proposed location of the operation including the name of the locality and other general descriptive information regarding the location of the proposed operation;
2. A general description of the proposed operation;
3. The deadline for the general public to submit written comments, which shall not be less than 30 calendar days after publication of the notice;
4. A designated location where the environmental impact assessment can be reviewed;
5. A contact person from whom additional information can be obtained on the environmental impact assessment; and
6. An address for mailing comments on an assessment to the Department of Environmental Quality.

C. The Department of Environmental Quality shall submit copies of the environmental impact assessment to the chief executive officer of the affected local government, to the executive director of the affected Planning District Commission, and to other state or local agencies requesting a copy of the assessment. State agency comments shall be returned to the Department of Environmental Quality as soon as possible but no later than 50 calendar days after receiving a copy of an assessment from the Department of Environmental Quality.

D. The Department of Environmental Quality may hold a public information hearing on an impact assessment. Such a public hearing, if any, shall be held during the public comment period in the locality in which the operation is proposed. Notice of such a hearing, including the date, time,

and location of the meeting, will be announced in a general notice published in the Virginia Register and in a notice mailed, by electronic or postal delivery, to persons on the mailing list.

**9VAC15-40-110. Fees.**

A. Purpose. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit by rule or a modification to an existing permit by rule for a small wind energy project.

B. Permit fee payment and deposit. Fees for permit by rule applications or modifications shall be paid by the applicant as follows:

1. Due date. All permit application fees or modification fees are due on submittal day of the application or modification package.
2. Method of payment. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ" and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box ~~40150~~ 1104, Richmond, VA ~~23240~~ 23218.
3. Incomplete payments. All incomplete payments shall be deemed nonpayments.
4. Late payment. No application or modification submittal will be deemed complete until the department receives proper payment.

C. Fee schedules. Each application for a permit by rule and each application for a modification of a permit by rule is a separate action and shall be assessed a separate fee. The amount of the permit application fee is based on the costs associated with the permitting program required by this chapter. The fee schedules are shown in the following table:

Type of Action	Fee
Permit by rule application (including first three years of operation)	\$16,000
Permit by rule modification (after first three years of operation)	\$5,000

D. Use of fees. Fees are assessed for the purpose of defraying the department's costs of administering and enforcing the provisions of this chapter including, but not limited to, permit by rule processing, permit by rule modification processing, and inspection and monitoring of small wind energy projects to ensure compliance with this chapter. Fees collected pursuant to this section shall be used for the administrative and enforcement purposes specified in this section and in § 10.1-1197.6 E of the Code of Virginia.

E. Fund. The fees, received by the department in accordance with this chapter, shall be deposited in the Small Renewable Energy Project Fee Fund.

F. Periodic review of fees. Beginning July 1, 2012, and periodically thereafter, the department shall review the

schedule of fees established pursuant to this section to ensure that the total fees collected are sufficient to cover 100% of the department's direct costs associated with use of the fees.

**9VAC15-60-110. Fees for projects subject to Part II of this chapter.**

A. Purpose. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of fees from any applicant seeking a new permit by rule or a modification to an existing permit by rule for a small solar energy project subject to Part II (9VAC15-60-30 et seq.) of this chapter.

B. Permit fee payment and deposit. Fees for permit by rule applications or modifications shall be paid by the applicant as follows:

1. Due date. All permit application fees or modification fees are due on submittal day of the application or modification package.
2. Method of payment. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ" and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box ~~40150~~ 1104, Richmond, VA ~~23240~~ 23218.
3. Incomplete payments. All incomplete payments shall be deemed nonpayments.
4. Late payment. No application or modification submittal will be deemed complete until the department receives proper payment.

C. Fee schedules. Each application for a permit by rule and each application for a modification of a permit by rule is a separate action and shall be assessed a separate fee. The amount of the permit application fee is based on the costs associated with the permitting program required by this chapter. The fee schedules are shown in the following table:

Type of Action	Fee
Permit by rule application – by rated capacity:	
>5 MW up to and including 25 MW	\$8,000
>25 MW up to and including 50 MW	\$10,000
>50 MW up to and including 75 MW	\$12,000
>75 MW up to and including 100 MW	\$14,000
Permit by rule modification – for any project subject to Part II of this chapter	\$4,000

D. Use of fees. Fees are assessed for the purpose of defraying the department's costs of administering and enforcing the provisions of this chapter including, but not limited to, permit by rule processing, permit by rule modification processing, and inspection and monitoring of small solar energy projects to ensure compliance with this chapter. Fees collected pursuant to this section shall be used for the administrative and enforcement purposes specified in this chapter and in § 10.1-1197.6 E of the Code of Virginia.

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E. Fund. The fees, received by the department in accordance with this chapter, shall be deposited in the Small Renewable Energy Project Fee Fund.

F. Periodic review of fees. Beginning July 1, 2013, and periodically thereafter, the department shall review the schedule of fees established pursuant to this section to ensure that the total fees collected are sufficient to cover 100% of the department's direct costs associated with use of the fees.

## 9VAC15-90-40. Fees.

A. Purpose. The purpose of this section is to establish schedules and procedures pertaining to the payment and collection of fees from a fee simple owner or applicant in accordance with this chapter.

B. Fee payment and deposit. Fees related to UECA environmental covenants shall be paid by the fee simple owner or applicant as follows:

1. Due date. Where the department is the agency or the holder of the UECA environmental covenant, all fees are due upon submittal to the department of the proposed environmental covenant, covenant amendment, termination, or notification of property transfer. Where the department is neither the agency nor the holder of the UECA environmental covenant, a copy of the environmental covenant, covenant amendment, termination, or notification of property transfer and the accompanying fee are due prior to recordation.

2. Method of payment. Fees shall be paid by check, draft, or postal money order made payable to "Treasurer of Virginia/DEQ" and shall be sent to the Department of Environmental Quality, Receipts Control, P.O. Box 1104, Richmond, VA ~~23240~~ 23218.

3. Incomplete payments. All incomplete payments shall be deemed nonpayments.

4. Late payment. No environmental covenant, environmental covenant amendment, or termination under UECA and this chapter may be recorded until the department receives proper payment.

C. Fee schedules. Each UECA environmental covenant, UECA environmental covenant amendment, termination of a UECA environmental covenant, or transfer of a property encumbered by a UECA environmental covenant is a separate action and shall be assessed a separate fee. The amount of the fee is based on the costs associated with the implementation of UECA as required by this chapter. The fees required for UECA transactions where the department is either the agency or the holder are due whenever the department is the sole agency or the sole holder or when the department is one of multiple parties serving in either of these capacities. Where the department is both an agency and a holder, only the fees specified for the department as holder shall obtain. The fee schedules are shown in the following table:

Type of Action	Fee
1. UECA environmental covenants where the department is the agency:	
a. Initial submittal	\$4,000
b. Amendment	\$4,000
c. Termination	\$4,000
d. Property transfer	\$100
2. UECA environmental covenants where the department is the holder:	
a. Initial submittal	\$24,000
b. Amendment	\$24,000
c. Termination	\$24,000
d. Property transfer	\$100
3. UECA environmental covenants where the department is neither the agency nor the holder	
a. Initial submittal	\$1,000
b. Amendment	\$1,000
c. Termination	\$1,000
d. Property transfer	\$100

D. Use of fees. Fees collected pursuant to this section shall be used for the purposes specified in this chapter and UECA.

E. Fund. The fees, received by the department in accordance with this chapter, shall be deposited in the UECA Environmental Covenants Fund, as established by § 10.1-1248 B of the Code of Virginia.

F. Periodic review of fees. Beginning July 1, 2013, and periodically thereafter, the department shall review the schedule of fees established pursuant to this section to ensure that the total fees collected are sufficient to cover the department's costs associated with this chapter.

VA.R. Doc. No. R13-3765; Filed June 18, 2013, 2:33 p.m.

## STATE WATER CONTROL BOARD

### Proposed Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the

Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity (amending 9VAC25-151-10, 9VAC25-151-20, 9VAC25-151-40, 9VAC25-151-50, 9VAC25-151-60, 9VAC25-151-70, 9VAC25-151-80, 9VAC25-151-90, 9VAC25-151-110, 9VAC25-151-120, 9VAC25-151-130, 9VAC25-151-140, 9VAC25-151-150, 9VAC25-151-160, 9VAC25-151-170, 9VAC25-151-180, 9VAC25-151-190, 9VAC25-151-200, 9VAC25-151-210, 9VAC25-151-220, 9VAC25-151-230, 9VAC25-151-240, 9VAC25-151-250, 9VAC25-151-260, 9VAC25-151-270, 9VAC25-151-280, 9VAC25-151-290, 9VAC25-151-300, 9VAC25-151-310, 9VAC25-151-320, 9VAC25-151-330, 9VAC25-151-340, 9VAC25-151-350, 9VAC25-151-370; adding 9VAC25-151-15; repealing 9VAC25-151-65).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

**Public Hearing Information:**

August 29, 2013 - 3 p.m. - Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, VA

**Public Comment Deadline:** September 13, 2013.

**Agency Contact:** Burton R. Tuxford, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4086, FAX (804) 698-4032, TTY (804) 698-4021, or email burton.tuxford@deq.virginia.gov.

**Substance:** The proposed changes:

1) Add two reasons why a facility's discharge would not be eligible for coverage under the permit: (i) if the discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30, and (ii) if the discharge is not consistent with the assumptions and requirements of an approved total maximum daily load (TMDL).

2) Add language to allow for administrative continuance of coverage under the expiring general permit until the new permit is issued by the board, and facility coverage is either granted or denied. The permittee must submit a timely and complete registration statement prior to the expiration date of the existing permit and be in compliance with the terms of the expiring permit in order to qualify for continuance.

3) Add a question to the registration statement for newly constructed facilities in the Chesapeake Bay watershed. To be

eligible for permit coverage newly constructed facilities must submit documentation that they have either installed measures and controls to meet the "no net increase" of nutrients and sediment from the site prior to their developing the land for the industrial activity, or that they have purchased nutrient credits. This requirement was added to comply with Virginia's Watershed Implementation Plan (WIP) for U.S. Environmental Protection Agency's (EPA's) Chesapeake Bay TMDL.

4) Increase the benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring from annual to semi-annual. This was done to allow better tracking of compliance with the monitoring requirements, and to determine more quickly the facilities having storm water quality issues so that inspections can be targeted to the facilities that need more attention. Associated with this, the follow-up monitoring required by the current permit has been eliminated since all monitoring will now be twice per year. This permit proposes to require corrective actions and a corrective action report from the permittee when effluent limits or TMDL monitoring concentrations are exceeded.

5) Add that a waiver of the quarterly visual assessments, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) may be granted by the board at a facility that is both inactive and unstaffed, as long as the facility remains inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The owner of such a facility is only required to conduct an annual comprehensive site inspection. They must notify the department within 30 days if the facility becomes either active or staffed, and all quarterly visual assessments, routine facility inspections, and monitoring requirements must be resumed immediately.

6) Modified permit Special Condition No. 6 to require facilities in the Chesapeake Bay watershed to monitor discharges for sediment and nutrients semi-annually for the first two years of permit coverage (four samples) to characterize the contributions from their facility's specific industrial sector for these parameters. This requirement was added to comply with Virginia's Chesapeake Bay TMDL WIP.

7) Add Special Condition No. 7 to require facilities discharging through a Virginia Stormwater Management Program (VSMP) regulated municipal separate storm sewer system (MS4) to waters subject to the Chesapeake Bay TMDL to incorporate measures and controls into their storm water pollution prevention plan (SWPPP) to comply with the local ordinances if the facility is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL.

8) Add Special Condition No. 8 to require that after November 29, 2010, (the date of Virginia's Phase I Chesapeake Bay TMDL WIP), the waste loads from any

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expansion of an existing permitted facility discharging storm water in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the industrial activity. The permittee has to document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded portion of the land prior to the land being developed, and the measures and controls that are being employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity. Alternatively, the facility owner may acquire nutrient credits to meet the no net increase requirement in accordance with applicable regulations.

9) Modify Sector A (timber products facilities) in the Sector Specific Permit Requirements, to specify that SIC 2499-1303 (mulch, wood and bark facilities) are covered under the permit in this sector. This SIC has been covered all along, but until recently the department was not aware that mulch operations were classified under that SIC code. Added specific requirements for mulch operations and mulch dyeing operations, along with benchmark monitoring for both of these.

10) Modify Sector C (chemical and allied products manufacturing) to specify that SIC 2875 (composting facilities) are covered under the permit in this sector. This SIC has been covered all along, but there was still some confusion over where exactly they belonged in the permit. Added benchmark monitoring requirements for these facilities.

11) Modify Sector L (landfills, land application sites and open dumps) to specify that landfills that have been properly closed and capped in accordance with Virginia waste permitting requirements, and that have no significant materials exposed to storm water, do not require this permit. This is different than EPA's permit, which does not give landfills this option. Also, the benchmark monitoring for iron was removed from this sector. Iron is prevalent in Virginia soils and having these facilities monitor for it was unproductive.

12) Modify Sector N (scrap recycling and waste recycling facilities, and material recovery facilities) to add benchmark monitoring for source-separated facilities. These facilities are very similar to the nonsource separated facilities, and those already had benchmark monitoring requirements, so the monitoring parameters were made the same for both.

13) Modify Sector Q (water transportation) and Sector R (ship and boat building and repair yards). These two sectors are very similar in their storm water discharge characteristics. The benchmark monitoring requirements were made the same for both sectors (TSS, copper, and zinc). Also for both sectors, pressure washing and hull washing activities were defined as process wastewater that need separate VPDES permits (not authorized discharges under this permit).

14) Modify Sector S (air transportation) based upon EPA's draft 2013 MSGP to add the federal effluent limitation guideline for airport deicing facilities. Effluent limits are included for primary airports. The benchmark monitoring for deicing at major airports (EPA still has this) was deleted, but benchmark monitoring for TSS and TPH at all airports with maintenance activities (i.e., fueling, lubrication, mechanical repairs, vehicle washing) was added.

15) Modify Sector AA (fabricated metal products) to add copper to the benchmark monitoring for fabricated metal products facilities (except coating). Data for individual facilities shows this to be a problem at some of these facilities.

16) Modify Sector AB (transportation equipment, industrial, or commercial machinery) to add benchmark monitoring for TSS, TPH, copper, and zinc. Data for individual facilities shows problems with this sector, and the data will help the department to get a better understanding of the specific facilities with issues.

## Summary:

*This proposed regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) Industrial Activity Storm Water General Permit (VAR05) that expires on June 30, 2014, and is based primarily on the U.S. Environmental Protection Agency's (EPA's) 2008 final Multi-Sector General Permit (MSGP). The general permit establishes permit conditions and monitoring requirements for point source discharges of storm water associated with industrial activity to surface waters. The general permit regulation is reissued to make it available for these facilities to continue to discharge and will be effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

## **9VAC25-151-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the VPDES Permit Regulation (9VAC25-31) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to surface waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Closed landfill" means a landfill that, on a permanent basis, will no longer receive waste and has completed closure in accordance with applicable federal, state, or local requirements.

"Coal pile runoff" means the rainfall runoff from or through any coal storage pile.

"Colocated industrial activity" means ~~when a facility has any industrial activities being conducted activity, excluding the facility's primary industrial activity, located on-site that are described under more than one of the industrial sectors of 9VAC25-151-90 through 9VAC25-151-370~~ meets the description of a category included in the "industrial activity" definition. An activity at a facility is not considered colocated if the activity, when considered separately, does not meet the description of a category included in the "industrial activity" definition or identified by the Standard Industrial Classification (SIC) code list in Table 50-2 in 9VAC25-151-50.

"Commercial treatment and disposal facilities" means facilities that receive, on a commercial basis, any produced hazardous waste (not their own) and treat or dispose of those wastes as a service to the generators. Such facilities treating or disposing exclusively residential hazardous wastes are not included in this definition.

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

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or an authorized representative.

"Existing discharger" means an operator applying for coverage under this permit for discharges authorized previously under a VPDES general or individual permit.

"Impaired water" means ~~a water is impaired~~, for purposes of this chapter ~~if it, a water that~~ has been identified by Virginia pursuant to § 303(d) of the Clean Water Act as not meeting applicable water quality standards (these waters are called "water quality limited segments" under 40 CFR 30.2(j)). Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established.

~~"Inactive landfill" means a landfill that, on a permanent basis, will no longer receive waste and has completed closure in accordance with any applicable federal, state, or local requirements.~~

"Industrial activity" - the following categories of facilities are considered to be engaging in "industrial activity":

- (1) 1. Facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter N ~~(2007)~~ (except facilities with toxic pollutant effluent standards which are exempted under category (10) of this definition);
- (2) 2. Facilities classified as Standard Industrial Classification (SIC) 24 (except 2434), 26 (except 265 and 267), 28 (except 283 and 285), 29, 311, 32 (except 323), 33, 3441, and 373 (Office of Management and Budget (OMB) SIC Manual, 1987);

(3) 3. Facilities classified as SIC 10 through 14 (mineral industry) (OMB SIC Manual, 1987) including active or inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(l) ~~(2007)~~ because the performance bond issued to the facility by the appropriate Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) authority has been released, or except for areas of noncoal mining operations which have been released from applicable state or federal reclamation requirements after December 17, 1990) and oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts or waste products located on the site of such operations; (inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim);

(4) 4. Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (42 USC § 6901 et seq.);

(5) 5. Landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this definition, and debris/wastes from ~~Department of Conservation and Recreation~~ Virginia Stormwater Management Program (VSMP) regulated construction activities/sites) including those that are subject to regulation under Subtitle D of RCRA;

(6) 6. Facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards, including but limited to those classified as Standard Industrial Classification Codes 5015 and 5093 (OMB SIC Manual, 1987);

(7) 7. Steam electric power generating facilities, including coal handling sites;

(8) 8. Transportation facilities classified as SIC Codes 40, 41, 42 (except 4221-4225), 43, 44, 45, and 5171 (OMB SIC Manual, 1987) which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operation, airport deicing operation, or which are otherwise identified under

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categories 1 through 7 or 9 and 10 of this definition are associated with industrial activity;

~~(9)~~ 9. Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that is located within the confines of the facility, with a design flow of 1.0 MGD or more, or required to have an approved POTW pretreatment program under 9VAC25-31. Not included are farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and which are not physically located in the confines of the facility, or areas that are in compliance with 9VAC25-31-420 through 9VAC25-31-720;

~~(10)~~ 10. Facilities under SIC Codes 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, 4221-4225 (OMB SIC Manual, 1987).

"Industrial storm water" means storm water runoff associated with the definition of "storm water discharge associated with from industrial activity."

"Land application unit" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for treatment or disposal.

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

~~"Large and medium municipal separate storm sewer system" means all municipal separate storm sewers that are located in the following municipalities: the City of Norfolk; the City of Virginia Beach; Fairfax County; the City of Chesapeake; the City of Hampton; Prince William County; Arlington County; Chesterfield County; Henrico County; the City of Newport News; and the City of Portsmouth.~~

"Measurable storm event" means a storm event that results in an actual discharge from a site.

"Minimize" means reduce or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

"MS4" means a municipal separate storm sewer system.

"Municipal separate storm sewer" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer

district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW).

"No exposure" means all industrial materials or activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, ~~and/or~~ or runoff.

"Primary industrial activity" includes any activities performed on-site which are:

1. Identified by the facility's primary SIC code; or

2. Included in the narrative descriptions of the definition of "industrial activity."

Narrative descriptions in the "industrial activity" definition include: category 1 activities subject to stormwater effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards; category 4 hazardous waste treatment storage or disposal facilities, including those that are operating under interim status or a permit under subtitle C of the Resource Conservation and Recovery Act RCRA; category 5 landfills, land application sites, and open dumps that receive or have received industrial wastes; category 7 steam electric power generating facilities; and category 9 sewage treatment works with a design flow of 1.0 mgd or more.

For collocated activities covered by multiple SIC codes, the primary industrial determination should be based on the value of receipts or revenues, or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared. The operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity.

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

~~"Section 313 water priority chemicals" means a chemical or chemical categories which: (i) are listed at 40 CFR 372.65 (2007) pursuant to § 313 of the Emergency Planning and Community Right to Know Act (EPCRA) (also known as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986) (42 USC § 11001 et seq.); (ii) are present at or above threshold levels at a facility subject to EPCRA § 313 reporting requirements; and (iii) that meet at least one of the following criteria: (a) are listed in Appendix D of 40 CFR Part 122 (2007) on either Table II (Organic priority pollutants), Table III (Certain metals, cyanides and phenols) or Table V (Certain toxic pollutants and hazardous substances); (b) are listed as a hazardous substance pursuant~~

to § 311(b)(2)(A) of the Clean Water Act at 40 CFR 116.4 (2007); or (c) are pollutants for which EPA has published acute or chronic water quality criteria.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the facility is required to report pursuant to EPCRA § 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (see 40 CFR 110.10 (2007) and 40 CFR 117.21 (2007)) or § 102 of CERCLA (see 40 CFR 302.4 (2007)).

~~"Small municipal separate storm sewer system" or "Small MS4" means all separate storm sewers that are: (i) owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under subsection 208 of the CWA that discharges to surface waters and (ii) not defined as "large" or "medium" municipal separate storm sewer systems, or designated under 9VAC25-31-120 A 1. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.~~

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process

wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this definition, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, final product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots, as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas. Industrial facilities include those that are federally, state, or municipally owned or operated that meet the description of the facilities listed in the "industrial activity" definition. The term also includes those facilities designated under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, load allocations (LAs) for nonpoint sources and/or natural background, and must include a margin of safety (MOS) and account for seasonal variations.

"Virginia Environmental Excellence Program" or "VEEP" means a voluntary program established by the department to provide public recognition and regulatory incentives to encourage higher levels of environmental performance for program participants that develop and implement environmental management systems (EMSs). The program is based on the use of EMSs that improve compliance, prevent pollution, and utilize other measures to improve environmental performance.

"Waste pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

**9VAC25-151-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated herein, that regulation shall be as it exists and has been published as of July 1, 2012.

**9VAC25-151-20. Purpose.**

This general permit regulation governs all ~~new and existing~~ storm water discharges associated with industrial activity from facilities in any of the industrial activity categories defined in 9VAC25-151-10 (Definitions), through a point source to surface waters, or through a municipal or

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nonmunicipal separate storm sewer system to surface waters. This regulation also governs storm water discharges designated by the board for permitting under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

## **9VAC25-151-40. Effective date of the permit.**

This general permit will become effective on July 1, 2009 2014. This general permit will expire on June 30, 2014 2019.

## **9VAC25-151-50. Authorization to discharge.**

A. To be eligible to discharge under this permit, an owner must (i) have a stormwater discharge associated with industrial activity from the facility's primary industrial activity, as defined in 9VAC25-151-10 (Definitions), provided the primary industrial activity is included in Table 50-2 of this section, or (ii) be notified that discharges from the facility have been designated by the board for permitting under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation, and are eligible for coverage under Sector AD of this permit.

Any owner governed by this general permit is hereby authorized to discharge storm water associated with industrial activity ~~(as defined in this regulation)~~, as defined in this chapter, to surface waters of the Commonwealth of Virginia provided that ~~the~~:

1. The owner ~~files the~~ submits a registration statement of in accordance with 9VAC25-151-60, ~~pays any fees and that~~ registration statement is accepted by the board;

2. The owner submits the required by ~~9VAC25-20,~~ receives a copy of the general permit, and permit fee;

3. The owner complies with the applicable requirements of 9VAC25-151-70 et seq.; and ~~provided that:~~

4. The board has not notified the owner that the discharge is ineligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;

2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;

3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or

4. The discharge is not consistent with the assumptions and requirements of an approved TMDL. Note: Virginia's Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) requires that waste loads for new facilities in the Chesapeake Bay watershed with industrial

stormwater discharges not exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. For purposes of this permit regulation, facilities constructed after November 29, 2010, must be consistent with this requirement to be eligible for coverage under this general permit.

C. 1. Facilities with colocated industrial activities on-site shall comply with all applicable effluent limitations, monitoring and pollution prevention plan requirements of each section of 9VAC25-151-70 et seq. in which a colocated industrial activity is described;

2. Storm water discharges associated with industrial activity that are mixed with other discharges (both storm water and nonstorm water) requiring a VPDES permit are authorized by this permit, provided that the owner obtains coverage under this VPDES general permit for the industrial activity discharges, and a VPDES general or individual permit for the other discharges. The owner shall comply with the terms and requirements of each permit obtained that authorizes any component of the discharge;

3. The storm water discharges authorized by this permit may be combined with other sources of storm water which are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit; ~~and,~~

4. Authorized nonstorm water discharges. The following "nonstorm water" discharges are authorized by this permit:

a. Discharges from fire fighting activities;

b. Fire hydrant flushings;

c. Potable water, including water line flushings;

d. Uncontaminated air conditioning or compressor condensate (excluding air compressors) condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;

e. Irrigation drainage;

f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with ~~manufacturer's instructions~~ the approved labeling;

g. Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);

h. Routine external building ~~wash-down~~ washdown that does not use detergents;

i. Uncontaminated ground water or spring water;

j. Foundation or footing drains where flows are not contaminated with process materials; and

k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

5. Storm water discharges associated with construction activity that are regulated under the Virginia Stormwater Management Program (VSMP) are not authorized by this permit.

6. Discharges subject to storm water effluent limitation guidelines under 40 CFR Subchapter N (Effluent Guidelines and Standards). Only those storm water discharges subject to storm water effluent limitation guidelines under 40 CFR Subchapter N that are identified in Table 50-1 of this subsection are eligible for coverage under this permit.

**TABLE 50 - 1  
STORM WATER-SPECIFIC EFFLUENT LIMITATION  
GUIDELINES.**

<u>Effluent Limitation Guideline</u>	<u>Sectors with Affected Facilities</u>
<u>Runoff from material storage piles at cement manufacturing facilities (40 CFR Part 411 Subpart C (established February 20, 1974))</u>	<u>E</u>
<u>Contaminated runoff from phosphate fertilizer manufacturing facilities (40 CFR Part 418 Subpart A (established April 8, 1974))</u>	<u>C</u>
<u>Coal pile runoff at steam electric generating facilities (40 CFR Part 423 (established November 19, 1982))</u>	<u>O</u>
<u>Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR Part 429 Subpart I (established January 26, 1981))</u>	<u>A</u>
<u>Runoff from asphalt emulsion facilities (40 CFR Part 443 Subpart A (established July 24, 1975))</u>	<u>D</u>
<u>Runoff from landfills (40 CFR Part 445 Subparts A and B (established January 19, 2000))</u>	<u>K and L</u>
<u>Discharges from airport deicing operations. (40 CFR Part 449 (established May 16, 2012))</u>	<u>S</u>

7. Permit eligibility is limited to discharges from facilities in the "sectors" of industrial activity summarized in Table 50-2 of this subsection. These sector descriptions are based on Standard Industrial Classification (SIC) Codes and Industrial Activity Codes. References to "sectors" in this permit (e.g., sector-specific monitoring requirements) refer to these groupings.

**B. Limitations on coverage.**

1. The owner shall not be authorized to discharge under this general permit if the owner has been required to obtain an individual permit pursuant to 9VAC25-31-170 B;

2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges;

3. The following storm water discharges associated with industrial activity are not authorized by this permit:

a. Discharges that are located at a facility where a VPDES permit has been terminated (other than at the request of the permittee) or denied;

b. Discharges that the director determines cause, or may reasonably be expected to cause, or be contributing to a violation of a water quality standard;

c. Discharges subject to effluent limitation guidelines, not described under 9VAC25-151-70, Table 70-2;

d. Discharges to waters for which a "total maximum daily load" (TMDL) allocation has been established by the board and approved by EPA prior to the term of this permit, unless the owner develops, implements, and maintains a storm water pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements of the TMDL. This only applies where the facility is a source of the TMDL pollutant of concern. The SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall implement BMPs designed to meet that allocation;

e. New dischargers that discharge to impaired waters for which a TMDL has not been established by the board and approved by EPA unless:

(1) The discharger prevents all exposure to stormwater of the pollutant(s) for which the waterbody is impaired, and retains documentation of the procedures taken to prevent exposure onsite with the SWPPP required by 9VAC25-151-70;

(2) The discharger documents that the pollutant(s) for which the waterbody is impaired is not present at the site, and retains documentation of this finding with the SWPPP required by 9VAC25-151-70; or

(3) Prior to submitting a registration statement, the discharger provides to the appropriate DEQ regional office data to support a showing that the discharge is not expected to cause or contribute to an exceedance of a water quality standard. The discharger shall provide data and other technical information to the regional office sufficient to demonstrate that the discharge of the pollutant for which the water is impaired will meet in-stream water quality criteria at the point of discharge to

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the waterbody. The discharges from the facility are authorized under this permit if the discharger receives an affirmative determination from the regional office that the discharges will not contribute to the existing impairment. The discharger shall maintain the supporting data and the regional office determination onsite with the SWPPP required by 9VAC25-151-70; and

f. Discharges that do not comply with Virginia's antidegradation policy for water quality standards under 9VAC25-260-30. If authorization to discharge under this general permit will not comply with the antidegradation requirements, an individual permit application may be required to allow a discharge that meets the requirements for high quality waters in 9VAC25-260-30-A-2, or

permits may be denied to meet the requirements for exceptional waters in 9VAC25-260-30-A-3.

4. ~~Facilities covered. Permit eligibility is limited to discharges from facilities in the "sectors" of industrial activity based on Standard Industrial Classification (SIC) codes and Industrial Activity codes summarized in Table 50-1. References to "sectors" in this permit refer to these sectors.~~

5. ~~Storm water discharges associated with construction activity that are regulated under the Department of Conservation and Recreation VSMP permit program are not authorized by this permit.~~

TABLE 50 - 1 2  
SECTORS OF INDUSTRIAL ACTIVITY COVERED BY THIS PERMIT:

SIC Code or Activity Code	Activity Represented
Sector A: Timber Products	
2411	Log Storage and Handling ( <del>Wet wet</del> deck storage areas are only authorized if no chemical additives are used in the spray water or applied to the logs).
2421	General Sawmills and Planning Mills.
2426	Hardwood Dimension and Flooring Mills.
2429	Special Product Sawmills, Not Elsewhere Classified.
2431-2439 (except 2434 - see Sector W)	Millwork, Veneer, Plywood, and Structural Wood.
2441, 2448, 2449	Wood Containers.
2451, 2452	Wood Buildings and Mobile Homes.
2491	Wood Preserving.
2493	Reconstituted Wood Products.
2499	Wood Products, Not Elsewhere Classified ( <u>includes SIC Code 24991303 - Wood, Mulch and Bark facilities</u> ).
Sector B: Paper and Allied Products	
2611	Pulp Mills.
2621	Paper Mills.
2631	Paperboard Mills.
2652-2657	Paperboard Containers and Boxes.
2671-2679	Converted Paper and Paperboard Products, <del>Except except</del> Containers and Boxes.
Sector C: Chemical and Allied Products	
2812-2819	Industrial Inorganic Chemicals.
2821-2824	Plastics Materials and Synthetic Resins, Synthetic Rubber, Cellulosic and Other Manmade Fibers, <del>Except except</del> Glass.
2833-2836	Medicinal Chemicals and Botanical Products; Pharmaceutical Preparations; In Vitro and In Vivo Diagnostic Substances; Biological Products, <del>Except except</del> Diagnostic

	Substances.
2841-2844	Soaps, Detergents, and Cleaning Preparations; Perfumes, Cosmetics, and Other Toilet Preparations.
2851	Paints, Varnishes, Lacquers, Enamels, and Allied Products.
2861-2869	Industrial Organic Chemicals.
2873-2879	Agricultural Chemicals (includes SIC Code 2875 - Composting Facilities).
2891-2899	Miscellaneous Chemical Products.
3952 (limited to list)	Inks and Paints, Including China Painting Enamels, India Ink, Drawing Ink, Platinum Paints for Burnt Wood or Leather Work, Paints for China Painting, Artist's Paints and Artist's Watercolors.
Sector D: Asphalt Paving and Roofing Materials and Lubricants	
2951, 2952	Asphalt Paving and Roofing Materials.
2992, 2999	Miscellaneous Products of Petroleum and Coal.
Sector E: Glass Clay, Cement, Concrete, and Gypsum Products.	
3211	Flat Glass.
3221, 3229	Glass and Glassware, Pressed or Blown.
3231	Glass Products Made of Purchased Glass.
3241	Hydraulic Cement.
3251-3259	Structural Clay Products.
3261-3269	Pottery and Related Products.
3274, 3275	Concrete, Gypsum and Plaster Products, Except: Concrete Block and Brick; Concrete Products, <del>Except except</del> Block and Brick; and <del>Ready-mixed</del> Ready-Mixed Concrete Facilities (SIC 3271-3273).
3281	Cut Stone and Stone Products
3291-3299	Abrasive, Asbestos, and Miscellaneous <del>Non-metallic</del> Non-Metallic Mineral Products.
Sector F: Primary Metals	
3312-3317	Steel Works, Blast Furnaces, and Rolling and Finishing Mills.
3321-3325	Iron and Steel Foundries.
3331-3339	Primary Smelting and Refining of Nonferrous Metals.
3341	Secondary Smelting and Refining of Nonferrous Metals.
3351-3357	Rolling, Drawing, and Extruding of Nonferrous Metals.
3363-3369	Nonferrous Foundries (Castings).
3398, 3399	Miscellaneous Primary Metal Products.
Sector G: Metal Mining (Ore Mining and Dressing)	
1011	Iron Ores.
1021	Copper Ores.
1031	Lead and Zinc Ores.

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1041, 1044	Gold and Silver Ores.
1061	Ferroalloy Ores, Except Vanadium.
1081	Metal Mining Services.
1094, 1099	Miscellaneous Metal Ores.
Sector H: Coal Mines and Coal Mining Related Facilities	
1221-1241	Coal Mines and Coal Mining-Related Facilities.
Sector I: Oil and Gas Extraction and Refining	
1311	Crude Petroleum and Natural Gas.
1321	Natural Gas Liquids.
1381-1389	Oil and Gas Field Services.
2911	Petroleum Refineries.
Sector J: Mineral Mining and Dressing Facilities (SIC 1411-1499) are not authorized under this permit.	
Sector K: Hazardous Waste Treatment, Storage, or Disposal Facilities	
HZ	Hazardous Waste Treatment Storage or Disposal.
Sector L: Landfills and Land Application Sites	
LF	Landfills, Land Application Sites, and Open Dumps.
Sector M: Automobile Salvage Yards	
5015	Automobile Salvage Yards.
Sector N: Scrap Recycling Facilities	
5093	Scrap Recycling Facilities.
4499 (limited to list)	Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships <del>For</del> <u>for</u> Scrap.
Sector O: Steam Electric Generating Facilities	
SE	Steam Electric Generating Facilities.
Sector P: Land Transportation and Warehousing	
4011, 4013	Railroad Transportation.
4111-4173	Local and Highway Passenger Transportation.
4212-4231	Motor Freight Transportation and Warehousing.
4311	United States Postal Service.
5171	Petroleum Bulk Stations and Terminals.
Sector Q: Water Transportation	
4412-4499 (except 4499 facilities as specified in Sector N)	Water Transportation.
Sector R: Ship and Boat Building or Repairing Yards	
3731, 3732	Ship and Boat Building or Repairing Yards.
Sector S: Air Transportation	

4512-4581	Air Transportation Facilities.
Sector T: Treatment Works	
TW	Treatment Works.
Sector U: Food and Kindred Products	
2011-2015	Meat Products.
2021-2026	Dairy Products.
2032-2038	Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties.
2041-2048	Grain Mill Products.
2051-2053	Bakery Products.
2061-2068	Sugar and Confectionery Products.
2074-2079	Fats and Oils.
2082-2087	Beverages.
2091-2099	Miscellaneous Food Preparations and Kindred Products.
2111-2141	Tobacco Products.
Sector V: Textile Mills, Apparel, and Other Fabric Product Manufacturing, Leather and Leather Products	
2211-2299	Textile Mill Products.
2311-2399	Apparel and Other Finished Products Made <del>From</del> <u>from</u> Fabrics and Similar Materials.
3131-3199 (except 3111 - see Sector Z)	Leather and Leather Products, except Leather Tanning and Finishing.
Sector W: Furniture and Fixtures	
2434	Wood Kitchen Cabinets.
2511-2599	Furniture and Fixtures.
Sector X: Printing and Publishing	
2711-2796	Printing, Publishing, and Allied Industries.
Sector Y: Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries.	
3011	Tires and Inner Tubes.
3021	Rubber and Plastics Footwear.
3052, 3053	Gaskets, Packing, and Sealing Devices and Rubber and Plastics Hose and Belting.
3061, 3069	Fabricated Rubber Products, Not Elsewhere Classified.
3081-3089	Miscellaneous Plastics Products.
3931	Musical Instruments.
3942-3949	Dolls, Toys, Games, and Sporting and Athletic Goods.
3951-3955 (except 3952 facilities as specified in Sector C)	Pens, Pencils, and Other Artists' Materials.
3961, 3965	Costume Jewelry, Costume Novelties, Buttons, and Miscellaneous Notions, Except

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	Precious Metal.
3991-3999	Miscellaneous Manufacturing Industries.
Sector Z: Leather Tanning and Finishing	
3111	Leather Tanning, Curryng, and Finishing.
Sector AA: Fabricated Metal Products	
3411-3499	Fabricated Metal Products, <del>Except</del> <u>except</u> Machinery and Transportation Equipment.
3911-3915	Jewelry, Silverware, and Plated Ware
Sector AB: Transportation Equipment, Industrial or Commercial Machinery	
3511-3599 (except 3571-3579 - see Sector AC)	Industrial and Commercial Machinery ( <del>Except</del> <u>except</u> Computer and Office Equipment).
3711-3799 (except 3731, 3732 - see Sector R)	Transportation Equipment ( <del>Except</del> <u>except</u> Ship and Boat Building and Repairing).
Sector AC: Electronic, Electrical, Photographic, and Optical Goods	
3571-3579	Computer and Office Equipment.
3612-3699	Electronic, <u>and Other</u> Electrical Equipment and Components, <del>Except</del> <u>except</u> Computer Equipment.
3812-3873	Measuring, Analyzing, and Controlling <del>Instrument</del> <u>Instruments</u> ; Photographic, <u>Medical</u> , and Optical Goods; <u>Watches and Clocks</u> .
Sector AD: Nonclassified Facilities/Storm Water Discharges Designated <del>By</del> <u>by</u> the Board <del>As</del> <u>as</u> Requiring Permits	
N/A	<del>Other</del> Storm Water Discharges Designated <del>By</del> <u>by</u> the Board <del>As</del> <u>as</u> <del>Needing a Permit</del> <u>(see for Permitting under the Provisions of 9VAC25-31-120 A 1 c), or Any Facility Discharging Storm Water Associated With Industrial Activity Not Described By Any of Sectors A-AC under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.</u>  Note: Facilities may not elect to be covered under Sector AD. Only the board may assign a facility to Sector AD.

~~C. D.~~ Conditional exclusion for no exposure. ~~If an Any~~ owner is covered by this permit, ~~but later is able to file a no exposure certification to be excluded who becomes eligible for a no exposure exclusion~~ from permitting under 9VAC25-31-120 E, ~~the owner is no longer authorized by nor required to comply with this permit. If the owner is no longer required to have permit coverage due to a no exposure exclusion, may file a no exposure certification. Upon submission and acceptance by the board of a complete and accurate no exposure certification, the permit requirements no longer apply, and the owner is not required to submit a notice of termination. A no exposure certification must be submitted to the board once every five years.~~

~~D. Receipt of~~ E. Compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other

applicable federal, state, or local statute, ordinance, or regulation.

## F. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the industrial activity storm water general permit issued in 2009 and that submits a complete registration statement on or before July 1, 2014, is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either:

- a. Issues coverage to the owner under this general permit;
- or
- b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon the 2009 general permit;

b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by administratively continued coverage under the terms of the 2009 general permit or be subject to enforcement action for discharging without a permit;

c. Issue an individual permit with appropriate conditions; or

d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

**9VAC25-151-60. Registration statement and Storm Water Pollution Prevention Plan (SWPPP).**

~~A. The owner of a facility with storm water discharges associated with industrial activity who is proposing to be covered by this general permit shall submit a VPDES general permit registration statement in accordance with this chapter. An owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for discharges of storm water associated with industrial activity.~~

~~Owners of facilities that were covered~~ Any owner that was authorized to discharge under the 2004 Industrial Storm Water General Permit who intend industrial storm water general permit that became effective on July 1, 2009, and that intends to continue coverage under this general permit shall review and update the Storm Water Pollution Prevention Plan (SWPPP) to meet all provisions of the general permit (9VAC25-151-70 et seq.) by October 1, 2009 within 90 days of the board granting coverage under this permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit who wish to obtain coverage under this general permit shall prepare and implement a written SWPPP for the facility in accordance with the general permit (9VAC25-151-70 et seq.) prior to submitting the registration statement.

~~B. Deadlines for submitting registration statement statements.~~

1. Existing facilities.

~~a. Owners of facilities that were covered~~ Any owner that was authorized to discharge under the 2004 Industrial Storm Water General Permit who intend industrial storm water general permit that became effective on July 1, 2009, and that intends to continue coverage under this general permit shall submit a complete registration statement prior to July 1, 2009 to the board on or before May 2, 2014.

~~b. Owners of facilities previously covered by an expiring~~ Any owner covered by an individual VPDES permit for storm water discharges associated with industrial activity

~~may elect that is proposing to be covered under this general permit by submitting shall submit~~ a complete registration statement at least ~~30~~ 240 days prior to the expiration date of the individual VPDES permit.

~~c. Owners~~ Any owner of an existing facilities facility with storm water discharges associated with industrial activity, not currently covered by a VPDES permit, who intend to obtain coverage that is proposing to be covered under this general permit for storm water discharges associated with industrial activity shall submit a complete registration statement to the board.

~~2. New facilities. Owners of new facilities who wish to obtain coverage under this general permit~~ Any owner proposing a new discharge of storm water associated with industrial activity shall submit a complete registration statement at least 30 60 days prior to the date planned for the commencement of the industrial activity at the facility.

~~3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall submit a complete registration statement or a "Change of Ownership" form within 30 days of the ownership change.~~

~~4. Late notifications. An owner of a storm water discharge associated with industrial activity is not precluded from submitting a registration statement after the applicable dates provided in subdivisions 1 through 3 of this subsection. If a late registration statement is submitted, the owner is only authorized for discharges that occur after permit coverage is granted. The department reserves the right to take appropriate enforcement actions for any unpermitted discharges.~~

~~5. Additional notification for discharges to municipal separate storm sewer systems. Where the discharge of storm water associated with industrial activity is through a municipal separate storm sewer system (MS4), the owner shall notify the operator of the municipal system receiving the discharge and submit a copy of their registration statement to the municipal system operator.~~

3. Late registration statements. Registration statements for existing facilities covered under subdivision 1 a of this subsection will be accepted after July 1, 2014, but authorization to discharge will not be retroactive. Owners described in subdivision 1 a of this subsection that submit registration statements after May 2, 2014, are authorized to discharge under the provisions of 9VAC25-151-50 F (Continuation of permit coverage) if a complete registration statement is submitted on or before July 1, 2014.

~~C. Registration statement contents.~~ The required registration statement shall contain the following information:

1. Name, mailing address, email address (where available), and telephone number of the:

~~a. Property~~ Facility owner of the site; and

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b. Operator applying for permit coverage (if different than ~~subdivision 1 a of this subsection~~) the facility owner);

~~e. Responsible party requesting permit coverage, and who will be legally responsible for compliance with this permit;~~

2. Name Facility name (or other identifier), street address, county (or city), contact name, email address (where available), ~~and phone number for the facility for which the registration statement is submitted, and FAX number (where available);~~

3. Facility ownership status: federal, state, public or private  
The nature of the business;

4. ~~Name(s) of the receiving water(s) that storm water is discharged into~~ The receiving waters of the industrial activity discharges;

5. ~~A statement indicating if storm water runoff is discharged to a municipal separate storm sewer system (MS4). Provide the name of the MS4 operator if applicable. Whether the facility discharges, or will discharge, to an MS4. If so, provide the name of the MS4 owner. (Note: Permit special condition #12 requires the permittee to notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under this permit. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number);~~

6. ~~VPDES The permit numbers number for all permits any existing VPDES permit assigned to the facility (including coverage under the 2004 Industrial Storm Water General Permit);~~

7. Whether an SWPPP has been prepared prior to submitting this registration statement by the owner of a new facility, a facility previously covered by an expiring individual permit, or an existing facility not currently covered by a VPDES permit.

~~7. 8. An indication as to whether this facility discharges will discharge storm water runoff from coal storage piles;~~

8. ~~A copy of the SWPPP general location map and the SWPPP site map prepared in accordance with 9VAC25-151-80 B 2 b and c (general permit Part III B 2 b and c) and any applicable sector specific site map requirements. Owners covered under the 2004 Industrial Storm Water General Permit shall update their site map to meet all requirements listed in 9VAC25-151-80 B 2 c (general permit Part III B 2 c) and any applicable sector specific site map requirements, and shall submit the map to the department as soon as practicable, but not later than October 1, 2009;~~

9. Identification of up to four 4-digit Standard Industrial Classification (SIC) Codes or 2-letter Industrial Activity

Codes that best represent the principal products or services rendered by the facility and major collocated industrial activities (2-letter Industrial Activity Codes are: HZ – hazardous waste treatment, storage, or disposal facilities; LF – ~~landfills/disposal~~ landfills and disposal facilities that receive or have received any industrial wastes; SE – steam electric power generating facilities; or, TW – treatment works treating domestic sewage);

10. Identification of all applicable industrial sectors in this permit (as designated in Table ~~50-1~~ 50-2) that cover the ~~discharges associated with industrial activity from activities at the facility,~~ and major collocated industrial activities to be covered under this permit, and the storm water outfalls associated with each industrial sector.

a. If the facility is a landfill (sector L), indicate the type of landfill (~~MSWLF (i.e., MSWLF (municipal solid waste landfill), CDD (construction debris/demolition), debris and demolition~~), or other), and which outfalls (if any) receive contaminated storm water runoff;

b. If the facility is a timber products operation (sector A), indicate which outfalls (if any) receive discharges from wet decking areas;

c. For all facilities, indicate which outfalls (if any) receive discharges from coal storage piles;

d. If the facility manufactures asphalt paving and roofing materials (sector D), indicate which outfalls (if any) receive discharges from areas where production of asphalt paving and roofing emulsions occurs;

e. If the facility manufactures cement (sector E), indicate which outfalls (if any) receive discharges from material storage piles;

f. If a scrap recycling and waste recycling facility (sector N - SIC 5093) only receives source-separated recyclable materials, indicate which outfalls (if any) receive discharges from this activity. List the metals (if any) that are received; or

g. For primary airports (sector S), list the average deicing season and indicate which outfalls (if any) receive discharges from deicing of non-propeller aircraft, and the annual average departures of non-propeller aircraft;

11. Facility site information. List the total area of the site (in acres), the area of industrial activity at the site (in acres), and the total impervious area of the site (in acres);

12. The following maps shall be included with the registration statement:

a. General location map. A USGS 7.5 minute topographic map, or other equivalent computer generated map, with sufficient resolution to clearly show the location of the facility and the surrounding locale; and

b. Site map. A map showing the property boundaries, the location of all industrial activity areas, all storm water outfalls, and all water bodies receiving storm water

discharges from the site. Outfalls shall be numbered using a unique numerical identification code for each outfall (e.g., Outfall No. 001, No. 002, etc.);

13. Virginia's Chesapeake Bay TMDL Watershed Implementation Plan (November 29, 2010) requires that waste loads for new facilities in the Chesapeake Bay watershed with industrial stormwater discharges not exceed the nutrient and sediment loadings that were discharged prior to the land being developed for the industrial activity. For purposes of this permit regulation, facilities constructed after November 29, 2010, must be consistent with this requirement to be eligible for coverage under this general permit.

If this is a new facility constructed after November 29, 2010, in the Chesapeake Bay watershed, and applying for first time general permit coverage, attach documentation to the registration statement to show:

a. That the total phosphorus load does not exceed the greater of: (i) the total phosphorus load that was discharged from the site prior to the land being developed for the industrial activity, or (ii) 0.41 pounds per acre per year (VSMP water quality design criteria). The documentation must include the measures and controls that were employed to meet this requirement, along with the supporting calculations. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the board. Design specifications and pollutant removal efficiencies for BMPs can be found on the Virginia Storm Water BMP Clearinghouse website at <http://www.vwrrc.vt.edu/swc>; or

b. That nutrient credits have been acquired to meet the net increase requirement in accordance with applicable regulations; and

~~14.~~ 14. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-151-70, Part H-K 9VAC25-31-110 A of the VPDES Permit Regulation.

E. Where to submit. The registration statement may be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

~~F. A facility's registration statement will be posted to the department's public website for 30 days prior to the department granting the facility general permit coverage.~~

**~~9VAC25-151-65. Termination of permit coverage. (Repealed)~~**

~~A. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:~~

- ~~1. Operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;~~
- ~~2. A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted); or~~
- ~~3. All storm water discharges associated with industrial activity have been covered by an individual VPDES permit.~~

~~B. The notice of termination shall contain the following information:~~

- ~~1. Owner's name, mailing address and telephone number;~~
- ~~2. Facility name and location;~~
- ~~3. VPDES Industrial storm water general permit number;~~
- ~~4. The basis for submitting the notice of termination, including:
 
  - ~~a. A statement indicating that a new owner has assumed responsibility for the facility;~~
  - ~~b. A statement indicating that operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;~~
  - ~~c. A statement indicating that all storm water discharges associated with industrial activity have been covered by an individual VPDES permit; or~~
  - ~~d. A statement indicating that termination of coverage is being requested for another reason (state the reason);~~~~

~~5. The following certification: "I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity in accordance with the general permit, and that discharging pollutants in storm water associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an~~

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owner from liability for any violations of this permit or the Clean Water Act."

~~C. The notice of termination shall be signed in accordance with 9VAC25-151-70, Part II K.~~

~~D. Where to submit. The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.~~

## 9VAC25-151-70. General permit.

Any owner whose registration statement is accepted by the director will receive the following general permit and shall comply with the requirements therein and be subject to the VPDES Permit Regulation, 9VAC25-31. Facilities with colocated industrial activities shall comply with all applicable monitoring and pollution prevention plan requirements of each industrial activity sector of this chapter in which a colocated industrial activity is described. All pages of 9VAC25-151-70 and 9VAC25-151-80 apply to all storm water discharges associated with industrial activity covered under this general permit. Not all pages of 9VAC25-151-90 et seq. will apply to every permittee. The determination of which pages apply will be based on an evaluation of the regulated activities located at the facility.

General Permit No.: VAR05

Effective Date: July 1, ~~2009~~ 2014

Expiration Date: June 30, ~~2014~~ 2019

### GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH INDUSTRIAL ACTIVITY AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of facilities with storm water discharges associated with industrial activity are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulation ~~or policies~~ which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, Part II-Conditions Applicable to All VPDES Permits, Part III-Storm Water Pollution Prevention Plan, and Part IV-Sector-Specific Permit Requirements, as set forth herein.

#### Part I

#### Effluent Limitations, Monitoring Requirements and Special Conditions

##### A. Effluent limitations and monitoring requirements.

There are ~~three~~ four individual and separate categories of monitoring requirements that a facility may be subject to under this permit: (i) quarterly visual monitoring; (ii) benchmark monitoring of discharges associated with specific

industrial activities; ~~and~~ (iii) compliance monitoring for discharges subject to numerical effluent limitations; ~~and~~ (iv) monitoring of discharges to impaired waters, both those with an approved TMDL and those without an approved TMDL. The monitoring requirements and numeric effluent limitations applicable to a facility depend on the types of industrial activities generating storm water runoff from the facility, and for TMDL monitoring, the location of the ~~facility~~ facility's discharge or discharges. Part IV of the permit (9VAC25-151-90 et seq.) identifies monitoring requirements applicable to specific sectors of industrial activity. The permittee shall review Part I A 1 and Part IV of the permit to determine which monitoring requirements and numeric limitations apply to his facility. Unless otherwise specified, limitations and monitoring requirements under Part I A 1 and Part IV are additive.

Sector-specific monitoring requirements and limitations are applied discharge by discharge at facilities with colocated activities. Where storm water from the colocated activities are commingled, the monitoring requirements and limitations are additive. Where more than one numeric limitation for a specific parameter applies to a discharge, compliance with the more restrictive limitation is required. Where monitoring requirements for a monitoring period overlap (e.g., need to monitor TSS ~~one/year~~ twice per year for a limit and also ~~one/year~~ twice per year for benchmark monitoring), the permittee may use a single sample to satisfy both monitoring requirements.

##### 1. Types of monitoring requirements and limitations.

a. Quarterly visual monitoring. The requirements and procedures for quarterly visual monitoring are applicable to all facilities covered under this permit, regardless of the facility's sector of industrial activity.

(1) The permittee shall perform and document a quarterly visual examination of a storm water discharge associated with industrial activity from each outfall, except discharges exempted ~~below (Part I A 1 a (2) and (4), and Part I A 3) in Part I A 3 or Part I A 4.~~ below (Part I A 1 a (2) and (4), and Part I A 3) in Part I A 3 or Part I A 4. The examination(s) shall be made at least once in each of the following three-month periods: January through March, April through June, July through September, and October through December. The visual examination shall be made during ~~daylight hours (e.g., normal working hours)~~ normal working hours, where practicable, and when considerations for safety and feasibility allow. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred. The documentation shall be signed and certified in accordance with Part II K of this permit.

(2) ~~Visual examinations shall be made of samples collected within the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of~~

~~when the runoff or snowmelt begins discharging from the facility. Samples shall be collected in accordance with Part I A 2. The examination shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination shall be conducted in a well-lit area. No analytical tests are required to be performed on the samples. All samples (except snowmelt samples) shall be collected from the discharge resulting from a storm event that results in an actual discharge from the site (defined as a "measurable storm event"), and that occurs at least 72 hours from the previously measurable storm event. The 72 hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. Where practicable, the same individual shall carry out the collection and examination of discharges for the entire permit term. If no qualifying storm event resulted in runoff during daylight hours from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no qualifying storm event occurred during daylight hours that resulted in storm water runoff during that quarter. The documentation shall be signed and certified in accordance with Part II K.~~

(3) The visual examination reports shall be maintained on-site with the Storm Water Pollution Prevention Plan (SWPPP). The report shall include the outfall location, the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.

~~(4) Inactive and unstaffed sites: When the permittee is unable to conduct visual storm water examinations at an inactive and unstaffed site, a waiver of the monitoring requirement may be exercised as long as the facility remains inactive and unstaffed, and there are no industrial materials or activities exposed to storm water. If this waiver is exercised, the permittee shall maintain a certification with the SWPPP stating that the site is inactive and unstaffed, there are no industrial materials or activities exposed to storm water, and that performing visual examinations during a qualifying event is not feasible. The waiver shall be signed and certified in accordance with Part II K.~~

~~(5) Representative outfalls — essentially identical discharges. If the facility has two or more outfalls that discharge substantially identical effluents, based on~~

~~similarities of the industrial activities, significant materials, size of drainage areas, and storm water management practices occurring within the drainage areas of the outfalls, the permittee may conduct visual monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall(s). The permittee shall include the following information in the SWPPP:~~

- ~~(a) The locations of the outfalls;~~
- ~~(b) Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data, where available;~~
- ~~(c) Estimates of the size of the drainage area (in square feet) for each of the outfalls; and~~
- ~~(d) An estimate of the runoff coefficient of the drainage areas (low: under 40%; medium: 40% to 65%; high: above 65%).~~
- ~~(6) If a facility's permit coverage is effective less than one month from the end of a quarterly monitoring period, the first quarterly period starts with the next respective quarterly monitoring period (e.g., if permit coverage begins March 5, the permittee will not need to start quarterly visual monitoring until the April-June quarter).~~

b. Benchmark monitoring of discharges associated with specific industrial activities.

Table 70-1 identifies the specific industrial sectors subject to the benchmark monitoring requirements of this permit and the industry-specific pollutants of concern. The permittee shall refer to the tables found in the individual sectors in Part IV (9VAC25-151-90 et seq.) for benchmark monitoring concentration values. Colocated industrial activities at the facility that are described in more than one sector in Part IV shall comply with all applicable benchmark monitoring requirements from each sector.

The results of benchmark monitoring are primarily for the permittee to use to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark concentration values, included in Part IV of this permit, are not effluent limitations. Exceedance of a benchmark concentration does not constitute a violation of this permit and does not indicate that violation of a water quality standard has occurred; however, it does signal that modifications to the SWPPP are necessary, unless justification is provided in the comprehensive site compliance evaluation (Part III E). In addition, exceedance of benchmark concentrations may identify facilities that would be more appropriately covered under an individual, or alternative general permit where more specific pollution prevention controls could be required.

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TABLE 70-1-  
INDUSTRIAL SECTORS SUBJECT TO BENCHMARK MONITORING-

Industry Sector <sup>1</sup>	Industry Sub-sector	Benchmark Monitoring Parameters
A	General Sawmills and Planing Mills	TSS.
	Wood Preserving Facilities	Arsenic, Chromium, Copper.
	Log Storage and Handling	TSS.
	Hardwood Dimension and Flooring Mills	TSS.
	<u>Mulch, Wood and Bark Facilities</u>	<u>BOD, TSS.</u>
	<u>Mulching Dying Operations</u>	<u>BOD, TSS, COD, Aluminum, Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Manganese, Mercury, Nickel, Selenium, Silver, Zinc, Total N, Total P.</u>
B	Paperboard Mills	BOD.
C	Industrial Inorganic Chemicals	Aluminum, Iron, Total N.
	Plastics, Synthetic Resins, etc.	Zinc.
	Soaps, Detergents, Cosmetics, Perfumes	Total N, Zinc.
	Agricultural Chemicals	Total N, Iron, Zinc, <del>Phosphorus</del> <u>Total P.</u>
	<u>Composting Facilities</u>	<u>TSS, BOD, COD, Ammonia, Total N, Total P.</u>
D	Asphalt Paving and Roofing Materials	TSS <sub>2</sub>
E	Clay Products	Aluminum <sub>2</sub>
	Lime and Gypsum Products	TSS, pH, Iron.
F	Steel Works, Blast Furnaces, and Rolling and Finishing Mills	Aluminum, Zinc.
	Iron and Steel Foundries	Aluminum, TSS, Copper, Iron, Zinc.
	Nonferrous Rolling and Drawing	Copper, Zinc.
	Nonferrous Foundries (Castings)	Copper, Zinc.
G <sup>2</sup>	Copper Ore Mining and Dressing	TSS
H	Coal Mines and Coal-Mining Related Facilities	TSS, Aluminum, Iron
K	Hazardous Waste Treatment, Storage or Disposal	TKN, TSS, TOC, Arsenic, Cadmium, Cyanide, Lead, <u>Magnesium</u> , Mercury, Selenium, Silver.
L	Landfills, Land Application Sites, and Open Dumps	<del>Iron</del> , TSS.
M	Automobile Salvage Yards	TSS, Aluminum, Iron, Lead.
N	Scrap Recycling and Waste Recycling Facilities	Copper, Aluminum, Iron, Lead, Zinc, TSS, Cadmium, Chromium.
	Ship Dismantling, Marine Salvaging and Marine Wrecking	Aluminum, Cadmium, Chromium, Copper, Iron, Lead, Zinc, TSS.

O	Steam Electric Generating Facilities	Iron.
P	Land Transportation and Warehousing	TPH, TSS.
Q	Water Transportation Facilities	<del>Aluminum, Iron</del> TSS, Copper, Zinc.
R	Ship and Boat Building or Repairing Yards	TSS, <del>Copper, Zinc.</del>
S	Airports with deicing activities <sup>3</sup>	BOD, TKN, pH, COD, TSS, TPH.
U	Dairy Products.	BOD, TSS.
	Grain Mill Products	TSS, TKN.
	Fats and Oils	BOD, Total N, TSS.
Y	Rubber Products	Zinc.
Z	Leather Tanning and Finishing	TKN.
AA	Fabricated Metal Products Except Coating	Iron, Aluminum, <del>Copper, Zinc.</del>
	Fabricated Metal Coating and Engraving	Zinc.
<u>AB</u>	<u>Transportation Equipment, Industrial, or Commercial Machinery</u>	<u>TSS, TPH, Copper, Zinc.</u>
AD	Nonclassified Facilities/Storm Water Discharges Designated By the Board As Requiring Permits	TSS.

<sup>1</sup>Table does not include parameters for compliance monitoring under effluent limitations guidelines.

<sup>2</sup>See Sector G (Part IV G) for additional monitoring discharges from waste rock and overburden piles from active ore mining or dressing facilities, inactive ore mining or dressing facilities, and sites undergoing reclamation.

<sup>3</sup>~~Monitoring requirement is for airports with deicing activities that utilize more than 100 tons of urea or more than 100,000 gallons of glycol per year.~~

~~(1) (a) If a facility falls within a sector(s) required to conduct benchmark monitoring, monitoring Benchmark monitoring shall be performed for all benchmark parameters specified for the industrial sector or sectors applicable to a facility's discharge. Monitoring shall be performed at least once during each of the first two four, and potentially all, monitoring periods after the facility is granted coverage under the permit begins. Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.~~

Depending on the results of ~~two~~ four consecutive monitoring periods, benchmark monitoring may not be required to be conducted in subsequent monitoring periods (~~see Part I A 1 b (2)~~) (see subdivision (2) below).

~~(b) Monitoring periods for benchmark monitoring. The benchmark monitoring periods are as follows: (i) July 1, 2009, to December 31, 2009; (ii) January 1, 2010, to December 31, 2010; (iii) January 1, 2011, to December 31, 2011; (iv) January 1, 2012, to December 31, 2012; and, (v) January 1, 2013, to December 31, 2013.~~

~~(c) If a facility's permit coverage is effective less than one month from the end of a monitoring period, the facility's first monitoring period starts with the next~~

~~respective monitoring period (e.g., if permit coverage begins December 5, the permittee will not need to start sampling until the next January-December monitoring period).~~

(2) Benchmark monitoring waivers for facilities testing below benchmark concentration values. Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark concentration values on an outfall by outfall basis. Sector-specific benchmark monitoring is not required to be conducted in subsequent monitoring periods during the term of this permit provided:

(a) Samples were collected in ~~two~~ four consecutive monitoring periods, and ~~all the parameter concentrations were average of the four samples for all parameters at the outfall is~~ below the applicable benchmark concentration values value in Part IV. (Note: facilities that were covered under the 2009 industrial storm water general permit may use sampling data from the last two monitoring periods of that permit and the first two consecutive monitoring periods of this permit to satisfy the four consecutive monitoring periods requirement); and

(b) The facility is not subject to a numeric effluent limitation ~~for that parameter~~ established in Part I A 1 c

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~~(1) (Storm Water Effluent Limitations, Coal Pile Runoff, and TMDL Wasteload Allocations), (Storm Water Effluent Limitations), Part I A 1 c (2) (Coal Pile Runoff), or Part IV (Sector Specific Permit Requirements) for any of the parameters at that outfall; and~~

(c) A waiver request is submitted to and approved by the ~~department board~~. The waiver request shall be sent to the appropriate DEQ regional office, along with the supporting monitoring data for ~~two~~ four consecutive monitoring periods, and a certification that, based on current potential pollutant sources and BMPs used, discharges from the facility are reasonably expected to be essentially the same (or cleaner) compared to when the benchmark monitoring for the ~~two~~ four consecutive monitoring periods was done.

Waiver requests will be evaluated by the ~~department board~~ based upon: (i) benchmark monitoring results below the benchmark concentration values; (ii) a favorable compliance history (including inspection results); and (iii) no outstanding enforcement actions.

The monitoring waiver may be revoked by the ~~department board~~ for just cause. The permittee will be notified in writing that the monitoring waiver is revoked, and that the benchmark monitoring requirements are again in force and will remain in effect until the permit's expiration date.

~~(3) Samples shall be collected and analyzed in accordance with Part I A 2. For each outfall, one signed Discharge Monitoring Report (DMR) form shall be submitted to the department for each storm event sampled. Monitoring results shall be Monitoring results shall be reported in accordance with Part I A 5 and Part II C and retained in accordance with Part II B.~~

~~(4) Inactive and unstaffed sites. If the permittee is unable to conduct benchmark monitoring at an inactive and unstaffed site, a waiver of the monitoring requirement may be exercised as long as the facility remains inactive and unstaffed, and there are no industrial materials or activities exposed to storm water. If the permittee exercises this waiver, a certification shall be submitted to the department and maintained with the SWPPP stating that the site is inactive and unstaffed, there are no industrial materials or activities exposed to storm water, and that performing benchmark monitoring during a qualifying storm event is not feasible. The waiver shall be signed and certified in accordance with Part II K.~~

~~(5) Representative outfalls — essentially identical discharges. If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and storm water management practices occurring within the drainage areas of the outfalls, the permittee may perform benchmark monitoring on the effluent of just one of the~~

~~outfalls and report that the quantitative data also applies to the substantially identical outfall(s). The permittee shall include the following information in the SWPPP, and in any DMRs that are required to be submitted to the department:~~

~~(a) The locations of the outfalls;~~

~~(b) Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data, where available;~~

~~(c) Estimates of the size of the drainage area (in square feet) for each of the outfalls; and~~

~~(d) An estimate of the runoff coefficient of the drainage areas (low: under 40%; medium: 40% to 65%; high: above 65%).~~

c. Compliance monitoring for discharges subject to numerical effluent limitations or discharges to impaired waters.

(1) Facilities subject to storm water effluent limitation guidelines.

(a) Facilities subject to storm water effluent limitation guidelines (see Table 70-2) are required to monitor such discharges to evaluate compliance with numerical effluent limitations. Industry-specific numerical limitations and compliance monitoring requirements are described in Part IV of the permit (9VAC25-151-90 et seq.). ~~Colocated Permittees with colocated~~ industrial activities at the facility that are described in more than one sector in Part IV shall comply on a discharge-by-discharge basis with all applicable effluent limitations from each sector.

(b) Permittees shall monitor the discharges for the presence of the pollutant subject to the effluent limitation at least once during each of the monitoring periods after ~~the facility is granted~~ coverage under the permit begins. If a facility's permit coverage is effective less than one month from the end of a monitoring period, the facility's first monitoring period starts with the next respective monitoring period (e.g., if permit coverage begins December 5, the permittee will not need to start the effluent limitation monitoring until the next January-December monitoring period). Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for numeric effluent limits monitoring.

(c) The monitoring periods for effluent limitation monitoring are as follows: (i) July 1, 2009, to December 31, 2009; (ii) January 1, 2010, to December 31, 2010; (iii) January 1, 2011, to December 31, 2011; (iv) January 1, 2012, to December 31, 2012; and (v) January 1, 2013, to December 31, 2013.

~~(d)~~ (c) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 4 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-2:  
STORM WATER-SPECIFIC EFFLUENT LIMITATION  
GUIDELINES:

Effluent Limitation Guideline	Sectors with Affected Facilities
Runoff from material storage piles at cement manufacturing facilities (40 CFR Part 411 Subpart C <del>(2006)</del> <del>(established February 23, 1977)</del> (established February 20, 1974))	E
Contaminated runoff from phosphate fertilizer manufacturing facilities (40 CFR Part 418 Subpart A <del>(2006)</del> <del>(established April 8, 1974)</del> (established April 8, 1974))	C
Coal pile runoff at steam electric generating facilities (40 CFR Part 423 <del>(2006)</del> (established November 19, 1982))	O
Discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR Part 429, Subpart I <del>(2007)</del> (established January 26, 1981))	A
Runoff from asphalt emulsion facilities (40 CFR Part 443 Subpart A <del>(2007)</del> (established July 24, 1975))	D
Runoff from landfills; (40 CFR Part 445, Subpart A and B <del>(2007)</del> (established February 2, 2000)) <u>January 19, 2000))</u>	K & <u>L</u>
<u>Discharges from airport deicing operations (40 CFR Part 449 (established May 16, 2012))</u>	<u>S</u>

(2) Facilities subject to coal pile runoff monitoring.

(a) Facilities with discharges of storm water from coal storage piles shall comply with the limitations and monitoring requirements of Table 70-3 for all discharges containing the coal pile runoff, regardless of the facility's sector of industrial activity.

(b) Permittees shall monitor such storm water discharges at least once during each of the monitoring periods after ~~the facility is granted coverage under the permit begins.~~ If a facility's permit coverage is effective less than one month from the end of a monitoring period, the facility's first monitoring period starts with the next respective monitoring period (e.g., if permit coverage begins

~~December 5, the permittee will not need to start the coal pile runoff monitoring until the next January December monitoring period).~~ Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2. The substantially identical outfall monitoring provisions (Part I A 2 f) are not available for coal pile numeric effluent limits monitoring.

~~(c) Coal pile runoff monitoring periods are as follows: (i) July 1, 2009, to December 31, 2009; (ii) January 1, 2010, to December 31, 2010; (iii) January 1, 2011, to December 31, 2011; (iv) January 1, 2012, to December 31, 2012; and (v) January 1, 2013, to December 31, 2013.~~

~~(d)~~ (c) The coal pile runoff shall not be diluted with other storm water or other flows in order to meet this limitation.

~~(e)~~ (d) If a facility is designed, constructed and operated to treat the volume of coal pile runoff that is associated with a 10-year, 24-hour rainfall event, any untreated overflow of coal pile runoff from the treatment unit is not subject to the 50 mg/L limitation for total suspended solids.

~~(f)~~ (e) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 4 5 and Part II C, and retained in accordance with Part II B.

TABLE 70-3:  
NUMERIC LIMITATIONS FOR COAL PILE RUNOFF:

Parameter	Limit	Monitoring Frequency	Sample Type
Total Suspended Solids (TSS)	50 mg/l, max.	1/year	Grab
pH	6.0 min. - 9.0 max.	1/year	Grab

(3) Facilities ~~(discharging discharging to an impaired water with a board established and EPA approved an approved TMDL wasteload allocation.~~

(a) Upon written notification from the department, facilities subject to TMDL wasteload allocations will be required to monitor such discharges to evaluate compliance with the TMDL requirements.

(b) Permittees shall monitor the discharges for the pollutant subject to the TMDL wasteload allocation at least ~~semiannually (twice per year)~~ once during each of the monitoring periods after coverage under the permit begins. ~~The TMDL semiannual monitoring periods are from July 1 to December 31, and January 1 to June 30. If a facility's notification that they are subject to the TMDL~~

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~~monitoring requirements is effective less than one month from the end of a semiannual monitoring period, the facility's first monitoring period starts with the next respective monitoring period (e.g., if notification is given on December 5, the permittee will not need to start semiannual monitoring until the next January 1 to June 30 monitoring period). Monitoring commences with the first full monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.~~

Note: Facilities discharging to waters impaired for PCBs shall follow the monitoring schedule and the pollutant minimization plan (PMP) requirements described in the written notification from the department.

(c) Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 4 5 and Part II C, and retained in accordance with Part II B.

(d) If the pollutant subject to the TMDL waste load allocation is not detected in any of the samples from the first four monitoring periods (i.e., the first two years of coverage under the permit), the permittee may request to the ~~department board~~ in writing that further sampling be discontinued, unless the TMDL has specific instructions to the contrary (in which case those instructions shall be followed). The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.

If the pollutant subject to the TMDL waste load allocation is detected in any of the samples from the first four monitoring periods, the permittee shall continue the scheduled TMDL monitoring throughout the term of the permit.

(4) Facilities discharging to an impaired water without a ~~board established and EPA approved~~ an approved TMDL wasteload allocation.

(a) Upon written notification from the department, facilities discharging to an impaired water without a ~~board established and EPA approved~~ an approved TMDL wasteload allocation will be required to monitor such discharges for the pollutant(s) that caused the impairment.

(b) Permittees shall monitor the discharges for all pollutants for which the waterbody is impaired, and for which a standard analytical method exists, at least once during each of the monitoring periods after ~~the facility is granted coverage under the permit begins. If a facility's permit coverage is effective less than one month from the end of a monitoring period, the facility's first monitoring period starts with the next respective monitoring period (e.g., if permit coverage begins December 5, the permittee will not need to start the impaired water monitoring until the next January-December monitoring period).~~ Monitoring commences with the first full

monitoring period after the owner is granted coverage under the permit. Monitoring periods are specified in Part I A 2.

Note: Facilities discharging to waters impaired for PCBs shall follow the monitoring schedule and the pollutant minimization plan (PMP) requirements described in the written notification from the department.

~~(e) The impaired water monitoring periods are as follows: (i) July 1, 2009, to December 31, 2009; (ii) January 1, 2010, to December 31, 2010; (iii) January 1, 2011, to December 31, 2011; (iv) January 1, 2012, to December 31, 2012; and (v) January 1, 2013, to December 31, 2013.~~

~~(d)~~ (c) If the pollutant for which the waterbody is impaired is suspended solids, turbidity ~~or sediment/sedimentation~~, or sediment, or sedimentation, monitor for ~~Total Suspended Solids~~ total suspended solids (TSS). If the pollutant for which the waterbody is impaired is expressed in the form of an indicator or surrogate pollutant, monitor for that indicator or surrogate pollutant. No monitoring is required when a waterbody's biological communities are impaired but no pollutant, including indicator or surrogate pollutants, is specified as causing the impairment, or when a waterbody's impairment is related to hydrologic modifications, impaired hydrology, or temperature.

Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 4 5 and Part II C, and retained in accordance with Part II B.

~~(e)~~ (d) If the pollutant for which the water is impaired is not present in the discharges from the facility, or it is present but its presence is caused solely by natural background sources, ~~a notification to this effect shall be included in the first discharge monitoring report submitted by the facility, after which the permittee may request to the board in writing that further impaired water monitoring may be discontinued. The laboratory certificate of analysis shall be submitted with the request. If approved, documentation of this shall be kept with the SWPPP.~~

To support a determination that the pollutant's presence is caused solely by natural background sources, the following documentation shall be submitted with the request and kept with the SWPPP: (i) an explanation of why it is believed that the presence of the impairment pollutant in the facility's discharge is not related to the activities at the facility; and (ii) data or studies that tie the presence of the impairment pollutant in the facility's discharge to natural background sources in the watershed. Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity at the

facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

2. Monitoring instructions.

a. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall by outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part II A.

b. When and how to sample. A minimum of one grab sample shall be taken from the discharge associated with industrial activity resulting from a storm event that results in an actual discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document that less than a 72-hour interval is representative for local storm events during the sampling period. In the case of snowmelt, the monitoring ~~must~~ shall be performed at a time when a measurable discharge occurs at the site. For discharges from a storm water management structure, the monitoring shall be performed at a time when a measurable discharge occurs from the structure.

The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first ~~hour~~ three hours of the discharge, provided that the permittee explains why a grab sample during the first 30 minutes was impracticable. This information shall be submitted on or with the Discharge Monitoring Report (DMR), ~~or and~~ and maintained with the SWPPP ~~if reports are not required to be submitted.~~ If the sampled discharge commingles with process or nonprocess water, the permittee shall attempt to sample the storm water discharge before it mixes with the nonstorm water.

c. Storm event data. For each monitoring event (except snowmelt monitoring), along with the monitoring results, the permittee shall identify the date and duration (in hours) of the storm event(s) sampled; rainfall total (in inches) of the storm event that generated the sampled runoff; and the duration between the storm event sampled and the end of the previous measurable storm event. For snowmelt monitoring, the permittee shall identify the date of the sampling event.

d. Monitoring periods.

(1) Quarterly visual monitoring. The quarterly visual examinations shall be made at least once in each of the following three-month periods each year of permit coverage: January through March, April through June, July through September, and October through December.

(2) Benchmark monitoring, effluent limitation monitoring, and impaired waters monitoring (for waters both with and without an approved TMDL). Monitoring

shall be conducted at least once in each of the following semiannual periods each year of permit coverage: January through June, and July through December.

~~e.~~ e. Documentation explaining a facility's inability to obtain a sample (including ~~dates/times~~ dates and times the outfalls were viewed ~~and/or~~ or sampling was attempted), of no rain event, or of no "measurable" storm event shall be maintained with the SWPPP. Acceptable documentation includes, but is not limited to, ~~NCDC~~ National Climatic Data Center (NCDC) weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data.

f. Representative outfalls - substantially identical discharges. If the facility has two or more outfalls that discharge substantially identical effluents, based on similarities of the industrial activities, significant materials, size of drainage areas, and storm water management practices occurring within the drainage areas of the outfalls, the permittee may conduct monitoring on the effluent of just one of the outfalls and report that the observations also apply to the substantially identical outfall or outfalls. The substantially identical outfall monitoring provisions apply to quarterly visual monitoring, benchmark monitoring, and impaired waters monitoring (both those with and without an approved TMDL). The substantially identical outfall monitoring provisions are not available for numeric effluent limits monitoring.

The permittee shall include the following information in the SWPPP:

- (1) The locations of the outfalls;
- (2) Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available; and
- (3) Estimates of the size of the drainage area (in square feet) for each of the outfalls.

3. Adverse climatic conditions waiver. When adverse weather conditions prevent the collection of samples, a substitute sample may be taken during a qualifying storm event in the next monitoring period. Adverse weather conditions are those that are dangerous or create inaccessibility for personnel, and may include such things as local flooding, high winds, electrical storms, or situations that otherwise make sampling impracticable, such as drought or extended frozen conditions. Unless specifically stated otherwise, this waiver may be applied to any monitoring required under this permit.

4. Inactive and unstaffed sites (including temporarily inactive sites).

a. A waiver of the quarterly visual assessments, routine facility inspections, and monitoring requirements (including benchmark, effluent limitation, and impaired waters monitoring) may be granted by the board at a

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facility that is both inactive and unstaffed, as long as the facility remains inactive and unstaffed and there are no industrial materials or activities exposed to stormwater. The owner of such a facility is only required to conduct an annual comprehensive site inspection in accordance with the requirements in Part III E.

b. An inactive and unstaffed sites waiver request shall be submitted to the board for approval and shall include: the name of the facility; the facility's VPDES general permit registration number; a contact person, phone number and email address (if available); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part II K. If this waiver is granted, a copy of the request and the board's written approval of the waiver shall be maintained with the SWPPP.

c. If circumstances change and industrial materials or activities become exposed to stormwater, or the facility becomes either active or staffed, the permittee shall notify the department within 30 days, and all quarterly visual assessments, routine facility inspections, and monitoring requirements shall be resumed immediately.

d. The board retains the right to revoke this waiver when it is determined that the discharge is causing, has a reasonable potential to cause, or contributes to a water quality standards violation.

e. Inactive and unstaffed facilities covered under Sector G (Metal Mining) and Sector H (Coal Mines and Coal Mining-Related Facilities) are not required to meet the "no industrial materials or activities exposed to stormwater" standard to be eligible for this waiver, consistent with the conditional exemption requirements established in Part IV Sector G and Part IV Sector H.

#### 4. 5. Reporting monitoring results.

a. Reporting to the department. Depending on the types of monitoring required at a permitted facility, monitoring results may have to be submitted to the department, or they may only have to be kept with the SWPPP. The permittee shall follow the reporting requirements and deadlines below for the types of monitoring that apply to the facility:

TABLE 70-4.

MONITORING REPORTING REQUIREMENTS-

<p>Monitoring for Numeric Effluent Limitations (other than TMDL Wasteload Allocations)</p>	<p>For monitoring results that do not exceed the effluent limitations, submit the results on a DMR by January 10.</p> <p>For monitoring results that exceed the effluent limitations, submit the results on a DMR by January 10, or no later than 30 days after the</p>
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	<p>results are received by the facility, whichever date is earlier.</p>
<p>Semiannual Monitoring for TMDL Wasteload Allocations</p>	<p>For monitoring results that do not exceed the TMDL wasteload allocation, submit Submit the results on a DMR by January 10 and by July 10.</p> <p>For monitoring results that exceed the TMDL wasteload allocation, submit the results on a DMR by January 10 or July 10, or no later than 30 days after the results are received by the facility, whichever date is earlier.</p>
<p>Monitoring for Facilities Discharging to an Impaired Water Without an Approved TMDL Wasteload Allocation.</p>	<p>Submit results on a DMR by January 10.</p>
<p>Benchmark Monitoring</p>	<p>Submit results on a DMR by January 10.</p>
<p>Annual Monitoring for Metal Mining Facilities (see Part IV, Sector G)</p>	<p>Submit results to the department by January 10.</p>
<p>Quarterly Visual Monitoring</p>	<p>Retain results with SWPPP - do not submit unless requested to do so by the department.</p>
<p>Follow up Monitoring (see subsection A 5 e below).</p>	<p>Submit results on a DMR no later than 30 days after the results are received.</p>

Permittees that are required to submit monitoring shall submit results for each outfall associated with industrial activity according to the requirements of Part II C. For each outfall sampled, one signed discharge monitoring report (DMR) form shall be submitted to the department per storm event sampled. For representative outfalls, the sampled outfall will be reported on the DMR, and the outfalls that are representative of the sampled outfall will be listed in the comment section of the DMR. Signed DMRs are not required for each of the outfalls that are representative of the sampled outfall.

b. Additional reporting. In addition to filing submitting copies of discharge monitoring reports in accordance with Part II C, permittees with at least one storm water discharge associated with industrial activity through a regulated municipal separate storm sewer system (MS4); or a municipal system designated by the director, must

shall submit signed copies of DMRs to the MS4 operator at the same time as the reports are submitted to the department. Permittees not required to report monitoring data and permittees that are not otherwise required to monitor their discharges need not comply with this provision.

c. Significant digits. The permittee shall report at least the same number of significant digits as a numeric effluent limitation or TMDL wasteload allocation for a given parameter; otherwise, at least two significant digits shall be reported for a given parameter. Regardless of the rounding convention used by the permittee (i.e., five always rounding up or to the nearest even number), the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

#### 5-6. Corrective actions.

a. Data exceeding benchmarks concentration values.

(1) If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee ~~must~~ shall review the SWPPP and modify it as necessary to address any deficiencies that caused the exceedance. Revisions to the SWPPP ~~must~~ shall be completed within 30 days after an exceedance is discovered. When BMPs need to be modified or added (distinct from regular preventive maintenance of existing BMPs described in Part III C), implementation ~~must~~ shall be completed before the next anticipated storm event if possible, but no later than 60 days after the exceedance is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement BMPs, the permittee shall include a schedule in the SWPPP that provides for the completion of the BMPs as expeditiously as practicable, but no later than three years after the exceedance is discovered. Where a construction compliance schedule is included in the SWPPP, the plan shall include appropriate nonstructural ~~and/or~~ and temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent BMP. Any BMP modifications ~~must~~ shall be documented and dated, and retained with the SWPPP, along with the amount of time taken to modify the applicable BMPs or implement additional BMPs.

(2) Natural background pollutant levels. If the concentration of a pollutant exceeds a benchmark concentration value, and the permittee determines that exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background, corrective action is not required provided that:

(a) The concentration of the benchmark monitoring result is less than or equal to the concentration of that pollutant in the natural background;

(b) The permittee documents and maintains with the SWPPP the supporting rationale for concluding that

benchmark exceedances are in fact attributable solely to natural background pollutant levels. The supporting rationale shall include any data previously collected by the facility or others (including literature studies) that describe the levels of natural background pollutants in the facility's storm water discharges; and

(c) The permittee notifies the department on the benchmark monitoring DMR that the benchmark exceedances are attributable solely to natural background pollutant levels.

Natural background pollutants include those substances that are naturally occurring in soils or groundwater. Natural background pollutants do not include legacy pollutants from earlier activity on the facility's site, or pollutants in run-on from neighboring sources that are not naturally occurring.

b. Corrective actions. The permittee ~~must~~ shall take corrective action whenever:

(1) Routine facility inspections, comprehensive site compliance evaluations, inspections by local, state or federal officials, or any other process, observation or event result in a determination that modifications to the storm water control measures are necessary to meet the permit requirements; or

(2) There is any exceedance of an effluent limitation (including coal pile runoff), ~~or~~ TMDL wasteload allocation, or a reduction required by a local ordinance established by a municipality to meet Chesapeake Bay TMDL requirements;

(3) The department determines, or the permittee becomes aware, that the storm water control measures are not stringent enough for the discharge to meet applicable water quality standards.

The permittee ~~must~~ shall review the SWPPP and modify it as necessary to address any deficiencies. Revisions to the SWPPP ~~must~~ shall be completed within 30 days following the discovery of the deficiency. When BMPs need to be modified or added (distinct from regular preventive maintenance of existing BMPs described in Part III C), implementation ~~must~~ shall be completed before the next anticipated storm event if possible, but no later than 60 days after the deficiency is discovered, or as otherwise provided or approved by the department. In cases where construction is necessary to implement BMPs, the permittee shall include a schedule in the SWPPP that provides for the completion of the BMPs as expeditiously as practicable, but no later than three years after the deficiency is discovered. Where a construction compliance schedule is included in the SWPPP, the plan shall include appropriate nonstructural ~~and/or~~ and temporary controls to be implemented in the affected portion(s) of the facility prior to completion of the permanent BMP. The amount of time taken to modify a

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BMP or implement additional BMPs ~~must~~ shall be documented in the SWPPP.

Any corrective actions taken ~~must~~ shall be documented and retained with the SWPPP. Reports of corrective actions ~~must~~ shall be signed in accordance with Part II K.

c. Follow-up ~~monitoring and~~ reporting. If at any time monitoring results indicate that discharges from the facility exceed an effluent limitation or a TMDL wasteload allocation, or the department determines that discharges from the facility are causing or contributing to an exceedance of a water quality standard, immediate steps ~~must~~ shall be taken to eliminate the exceedances in accordance with the above Part I A 5 6 b (Corrective actions). Within 30 calendar days of implementing the relevant corrective action(s) ~~(or during the next qualifying runoff event, should none occur within 30 calendar days)~~ follow up monitoring ~~must be undertaken to verify that the BMPs that were modified are effectively protecting water quality. Follow up monitoring need only be conducted for pollutant(s) with prior exceedances unless there are reasons to believe that facility modifications may have reduced pollutant prevention or removal capacity for other pollutants of concern.~~

~~The follow up monitoring data must be submitted to the department no later than 30 days after the results are received. If the follow up monitoring value does not exceed the effluent limitation or other relevant standard, no additional follow up monitoring is required for this corrective action.~~

~~Should the follow up monitoring indicate that the effluent limitation, TMDL wasteload allocation, water quality standard or other relevant standard is still being exceeded, an exceedance report must shall be submitted to the department no later than 30 days after the follow-up monitoring results are received. The following information must shall be included in the report: general permit registration number; facility name, address, and location; receiving water; monitoring data from this and the preceding monitoring event(s) event; an explanation of the situation; description of what has been done and the intended actions (should the corrective actions not yet be complete) to further reduce pollutants in the discharge; and an appropriate contact name and phone number. Additional follow up monitoring must be continued at an appropriate frequency, but no less often than quarterly, until the discharge no longer exceeds the standard.~~

## B. Special conditions.

1. Allowable nonstorm water discharges. Except as provided in this section or in Part IV (9VAC25-151-90 et seq.), all discharges covered by this permit shall be composed entirely of storm water. The following nonstorm water discharges are authorized by this permit:

- a. Discharges from fire fighting activities;
- b. Fire hydrant flushings;
- c. Potable water including water line flushings;
- d. ~~Uncontaminated air conditioning or compressor condensate (excluding air compressors)~~ condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
- e. Irrigation drainage;
- f. Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with ~~manufacturer's instructions~~ the approved labeling;
- g. Routine external building ~~wash-down~~ washdown that does not use detergents;
- h. Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- i. Uncontaminated ground water or spring water;
- j. Foundation or footing drains where flows are not contaminated with process materials; and
- k. Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

All other nonstorm water discharges ~~shall be in compliance with a~~ are not authorized and shall either be eliminated or covered under a separate VPDES permit ~~(other than this permit) issued for the discharge.~~

The following nonstorm water discharges are specifically not authorized by this permit:

Sector A - Timber products. Discharges of storm water from areas where there may be contact with chemical formulations sprayed to provide surface protection.

Sector C - Chemical and allied products manufacturing. Inks, paints, or substances (hazardous, nonhazardous, etc.) resulting from an on-site spill, including materials collected in drip pans; washwaters from material handling and processing areas; or washwaters from drum, tank, or container rinsing and cleaning.

Sector G - Metal mining (ore mining and dressing). Adit drainage or contaminated springs or seeps; and contaminated seeps and springs discharging from waste rock dumps that do not directly result from precipitation events.

Sector H - Coal mines and coal mining-related facilities. Discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events; and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.

Sector I - Oil and gas extraction and refining. Discharges of vehicle and equipment washwater, including tank cleaning operations.

Sector K - Hazardous waste treatment, storage, or disposal facilities. Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory-derived wastewater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

Sector L - Landfills, land application sites and open dumps. Leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

Sector N - Scrap recycling and waste recycling facilities. Discharges from turnings containment areas in the absence of a storm event.

Sector O - Steam electric generating facilities. Nonstorm water discharges subject to effluent limitation guidelines.

Sector P - Land transportation and warehousing. ~~Vehicle/equipment/surface~~ Vehicle, equipment, or surface washwater, including tank cleaning operations.

Sector Q - Water transportation. Bilge and ballast water, sanitary wastes, pressure wash water, and cooling water originating from vessels.

Sector R - Ship and boat building or repair yards. Bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels.

Sector S - Air transportation. Aircraft, ground vehicle, runway and equipment washwaters; and dry weather discharges of ~~deicing/anti-icing~~ deicing and anti-icing chemicals.

Sector T - Treatment works. Sanitary and industrial wastewater; and ~~equipment/vehicle~~ equipment or vehicle washwaters.

Sector U - Food and kindred products. Boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging, and vehicle ~~washing/clean-out~~ washing and clean-out operations.

Sector V - Textile mills, apparel, and other fabric products. Discharges of wastewater (e.g., wastewater as a result of wet processing or from any processes relating to the production process); ~~reused/recycled~~ reused or recycled water; and waters used in cooling towers.

2. Releases of hazardous substances or oil in excess of reportable quantities. The discharge of hazardous substances or oil in the storm water discharge(s) from the facility shall be prevented or minimized in accordance with the storm water pollution prevention plan for the facility. This permit does not authorize the discharge of hazardous

substances or oil resulting from an on-site spill. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 110 (2007), 40 CFR Part 117 (2007), and 40 CFR Part 302 (2007) or § 62.1-44.34:19 of the Code of Virginia.

Where a release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2007), 40 CFR Part 117 (2007), or 40 CFR Part 302 (2007) occurs during a 24-hour period:

- a. The permittee is required to notify the department in accordance with the requirements of Part II G as soon as he has knowledge of the discharge;
- b. Where a release enters a municipal separate storm sewer system (MS4), the permittee shall also notify the owner of the MS4; and
- c. The storm water pollution prevention plan required under Part III shall be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan shall be modified where appropriate.

3. Colocated industrial activity. If the facility has industrial activities occurring on-site which are described by any of the activities in Part IV of the permit (9VAC25-151-90 et seq.), those industrial activities are considered to be colocated industrial activities. Storm water discharges from colocated industrial activities are authorized by this permit, provided that the permittee complies with any and all additional pollution prevention plan and monitoring requirements from Part IV applicable to that particular colocated industrial activity. The permittee shall determine which additional pollution prevention plan and monitoring requirements are applicable to the colocated industrial activity by examining the narrative descriptions of each coverage section (Discharges covered under this section).

4. The storm water discharges authorized by this permit may be combined with other sources of storm water which are not required to be covered under a VPDES permit, so long as the combined discharge is in compliance with this permit.

5. There shall be no discharge of waste, garbage, or floating solids or visible foam debris in other than trace amounts.

~~6. Salt storage piles or piles containing salt. Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and/or runoff that comes in contact with salt, including under drain~~

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~~systems, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials, or within an underground storage tank(s), or within an above ground storage tank(s), or disposed of through a sanitary sewer (with the permission of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated storm water be allowed to discharge directly to the ground or to state waters.~~

~~7. 6. Discharges to waters subject to TMDL wasteload allocations.~~

~~Facilities a. Owners of facilities that are a source of the specified pollutant of concern to waters for which a "total maximum daily load" (TMDL) wasteload allocation has been established by the board and approved by EPA prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part III that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. The facility's SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A 1 c (3), and implement BMPs designed to meet that allocation.~~

~~b. Facilities in the Chesapeake Bay watershed.~~

~~(1) Owners of facilities in the Chesapeake Bay watershed shall monitor their discharges for total suspended solids (TSS), total nitrogen (TN), and total phosphorus (TP) to characterize the contributions from their facility's specific industrial sector for these parameters. After the facility is granted coverage under the permit, samples shall be collected during each of the first four monitoring periods (i.e., the first two years of permit coverage). Monitoring periods are specified in Part I A 2. Samples shall be collected and analyzed in accordance with Part I A 2. Monitoring results shall be reported in accordance with Part I A 5 and Part II C, and retained in accordance with Part II B.~~

~~7. Discharges through a Virginia Stormwater Management Program (VSMP) regulated MS4 to waters subject to the Chesapeake Bay TMDL. Any facility with industrial activity discharges through a VSMP regulated MS4 that is notified by the MS4 operator that the locality has adopted ordinances to meet the Chesapeake Bay TMDL shall incorporate measures and controls into their SWPPP to comply with the local ordinances.~~

~~8. Expansion of facilities that discharge to waters subject to the Chesapeake Bay TMDL.~~

~~a. After November 29, 2010, (the date of Virginia's Phase I Chesapeake Bay TMDL Watershed Implementation~~

~~Plan), the waste loads from any expansion of an existing permitted facility discharging storm water in the Chesapeake Bay watershed cannot exceed the nutrient and sediment loadings that were discharged from the expanded portion of the land prior to the land being developed for the industrial activity.~~

~~b. The permittee shall document in the SWPPP the information and calculations used to determine the nutrient and sediment loadings discharged from the expanded portion of the land prior to the land being developed and the measures and controls that were employed to meet the no net increase of storm water nutrient and sediment load as a result of the expansion of the industrial activity.~~

~~c. The permittee may use the VSMP water quality design criteria to meet the requirements of subdivisions a and b of this subsection. Under this criteria, the total phosphorus load shall not exceed the greater of: (i) the total phosphorus load that was discharged from the expanded portion of the land prior to the land being developed for the industrial activity or (ii) 0.41 pounds per acre per year. Compliance with the water quality design criteria may be determined utilizing the Virginia Runoff Reduction Method or another equivalent methodology approved by the board. Design specifications and pollutant removal efficiencies for BMPs can be found on the Virginia Storm Water BMP Clearinghouse website at <http://www.vwrrc.vt.edu/swc>.~~

~~d. The facility owner may acquire nutrient credits to meet the no net increase requirement in accordance with applicable regulations.~~

~~8. 9. Water quality protection. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards. The permittee shall employ an iterative, BMP based program to select, install, implement and maintain best management practices (BMPs) at the facility designed to minimize pollutants in the storm water discharges, and to address any exceedance of any applicable water quality standard, effluent limitation, or TMDL waste load allocation. The board expects that compliance with the conditions in this permit will control discharges as necessary to meet applicable water quality standards. If there is evidence indicating that the storm water discharges authorized by this permit are causing, have the reasonable potential to cause, or are contributing to an excursion above an applicable water quality standard, an excursion above a TMDL wasteload allocation, or are causing downstream pollution (as defined in § 62.1-44.3 of the Code of Virginia), the board may require the permittee to take corrective action in accordance with Part I A 5 b and c, and include and implement appropriate controls in the SWPPP to correct the problem, or may require the permittee to obtain an individual permit in accordance with 9VAC25-31-170 B 3.~~

~~9. Adding/deleting~~ 10. Adding or deleting storm water outfalls. The permittee may add new ~~and/or~~ or delete existing storm water outfalls at the facility as ~~necessary/appropriate~~ necessary and appropriate. The permittee shall update the SWPPP and notify the department of all outfall changes within 30 days of the change. The permittee shall submit a copy of the updated SWPPP site map with their notification.

~~10.~~ 11. Antidegradation requirements for new or increased discharges to high quality waters. Facilities that add new outfalls, or increase their discharges from existing outfalls that discharge directly to high quality waters designated under Virginia's water quality standards antidegradation policy under 9VAC25-260-30 A 2 may be notified by the department that additional control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or may be notified that an individual permit is required in accordance with 9VAC25-31-170 B 3.

12. If the permittee discharges to surface waters through a municipal separate storm sewer system (MS4), the permittee shall, within 30 days of coverage under this general permit, notify the owner of the MS4 in writing of the existence of the discharge and provide the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit registration number. A copy of such notification shall be provided to the department.

13. Termination of permit coverage.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;

(2) A new owner has assumed responsibility for the facility (Note: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted);

(3) All storm water discharges associated with industrial activity have been covered by an individual VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES industrial storm water general permit registration number;

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility, and there are no longer discharges of storm water associated with industrial activity from the facility;

(c) A statement indicating that all storm water discharges associated with industrial activity have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason); and

(5) The following certification: "I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity in accordance with the general permit, and that discharging pollutants in storm water associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

c. The notice of termination shall be signed in accordance with Part II K.

d. The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

Part II

Conditions Applicable to All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2007) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45 (Certification for

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Noncommercial Environmental Laboratories) or 1VAC30-46 (Accreditation for Commercial Environmental Laboratories).

## B. Records.

1. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

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

## C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (~~2007~~) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR or reporting form specified by the department.

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

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause

exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from ~~his~~ the discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

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

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

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

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

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by fax, FAX, or online~~ at <http://www.deq.virginia.gov/Programs/PollutionResponsePre>

[paredness/MakingaReport.aspx](#). For reports outside normal working hours, ~~leave~~ a message may be left and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

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

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

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

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

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated

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facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit ~~application~~ registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

a. The authorization is made in writing by a person described in Part II K 1;

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

c. The written authorization is submitted to the department.

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry

of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~90~~ 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

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

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and

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

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

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

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

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

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

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

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

normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

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

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

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

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

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained

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herein shall make an inspection unreasonable during an emergency.

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

Y. Transfer of permits.

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

2. ~~As an alternative to transfers under Part II Y 1, Coverage under~~ this permit may be automatically transferred to a new permittee if:

a. 1. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property, unless permission for a later date has been granted by the board;

b. 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

e. 3. The board does not notify the existing permittee and the proposed new permittee of its intent to ~~modify or revoke and reissue~~ deny the new permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

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

## Part III

### Storm Water Pollution Prevention Plan

#### **9VAC25-151-80. Storm Water Pollution Prevention Plans.**

A Storm Water Pollution Prevention Plan (SWPPP) shall be developed and implemented for the facility covered by this permit. The SWPPP shall include ~~Best Management Practices (BMPs) that are reasonable, economically practicable, and appropriate in light of current industry practices. The BMPs shall be control measures~~ selected, designed, installed, implemented and maintained in accordance with good engineering practices and manufacturer's specifications, to eliminate or reduce the pollutants in all storm water discharges from the facility. ~~The SWPPP shall also include any control measures necessary for the storm water~~

~~discharges, and~~ to meet applicable effluent limitations and water quality standards.

The SWPPP requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents such as a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the Clean Water Act, or best management practices (BMP) programs otherwise required for the facility, provided that the incorporated plan meets or exceeds the plan requirements of Part III B (Contents of the Plan). All plans incorporated by reference into the SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the SWPPP of Part III B, the permittee shall develop the missing SWPPP elements and include them in the required plan.

A. Deadlines for plan preparation and compliance.

1. Facilities that were covered under the ~~2004~~ 2009 Industrial Storm Water General Permit. Owners of facilities that were covered under the ~~2004~~ 2009 Industrial Storm Water General Permit who are continuing coverage under this general permit shall update and implement any revisions to the SWPPP ~~not later than October 1, 2009~~ within 90 days of the board granting coverage under this permit.

2. New facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit who elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.

3. New owners of existing facilities. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of the ownership change.

4. Extensions. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

B. Contents of the plan. The contents of the SWPPP shall comply with the requirements listed below and those in the appropriate sectors of Part IV (9VAC25-151-90 et seq.) These requirements are cumulative. If a facility has collocated activities that are covered in more than one sector of Part IV, that facility's pollution prevention plan shall comply with the requirements listed in all applicable sectors. The following requirements are applicable to all SWPPPs developed under this general permit. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. The plan shall identify the staff individuals by name or title ~~that~~ who comprise the facility's storm water pollution prevention team. The

pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.

2. Site description. The SWPPP shall include the following:

- a. Activities at the facility. A description of the nature of the industrial activities at the facility.
- b. General location map. A general location map (e.g., USGS quadrangle or other map) with enough detail to identify the location of the facility and the receiving waters within one mile of the facility.
- c. Site map. A site ~~Map~~ map identifying the following:
  - (1) The size of the property (in acres);
  - (2) The location and extent of significant structures and impervious surfaces (roofs, paved areas and other impervious areas);
  - (3) Locations of all storm water conveyances including ditches, pipes, swales, and inlets, and the directions of storm water flow (use arrows to show which ways storm water will flow);
  - (4) Locations of all existing structural and source control BMPs;
  - (5) Locations of all surface water bodies, including wetlands;
  - (6) Locations of potential pollutant sources identified under Part III B 3;
  - (7) Locations where significant spills or leaks identified under Part III B 4 have occurred;
  - (8) Locations of the following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance ~~and/or~~ and cleaning areas; ~~loading/unloading~~ loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing and storage areas; access roads, rail cars and tracks; transfer areas for substances in bulk; and machinery;
  - (9) Locations of storm water outfalls and an approximate outline of the area draining to each outfall, and location of municipal storm sewer systems, if the storm water from the facility discharges to them. Outfalls shall be numbered using a unique numerical identification code for each outfall (e.g., Outfall No. 001, No. 002, etc.);
  - (10) Location and description of all nonstorm water discharges;
  - (11) Location of any storage piles containing salt used for deicing or other commercial or industrial purposes; ~~and~~
  - (12) Locations and sources of runoff to the site from adjacent property, where the runoff contains significant

~~quantities of pollutants. The permittee shall include an evaluation with the SWPPP of how the quality of the storm water running onto the facility impacts the facility's storm water discharges; and~~

(13) Locations of all storm water monitoring points.

d. Receiving waters and wetlands. The name of all surface waters receiving discharges from the site, including intermittent streams, dry sloughs, and arroyos. Provide a description of wetland sites that may receive discharges from the facility. If the facility discharges through a municipal separate storm sewer system (MS4), identify the MS4 operator, and the receiving water to which the MS4 discharges.

3. Summary of potential pollutant sources. The plan shall identify each separate area at the facility where industrial materials or activities are exposed to storm water. Industrial materials or activities include, but are not limited to: material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include, but are not limited to: the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product or waste product. For each separate area identified, the description shall include:

- a. Activities in the area. A list of the industrial activities exposed to storm water (e.g., material storage, equipment fueling and cleaning, cutting steel beams); ~~and~~
- b. Pollutants. A list of the ~~associated~~ pollutant(s) or pollutant constituents (e.g., crankcase oil, zinc, sulfuric acid, cleaning solvents, etc.) ~~for~~ associated with each industrial activity. The pollutant list shall include all significant materials handled, treated, stored or disposed that have been exposed to storm water in the three years prior to the date this SWPPP was prepared or amended. The list shall include any hazardous substances or oil at the facility.

~~4. c.~~ Spills and leaks. The SWPPP shall clearly identify areas where potential spills and leaks that can contribute pollutants to storm water discharges can occur and their corresponding outfalls. The plan shall include a list of significant spills and leaks of toxic or hazardous pollutants that actually occurred at exposed areas, or that drained to a storm water conveyance during the three-year period prior to the date this SWPPP was prepared or amended. The list shall be updated if significant spills or leaks occur in exposed areas of the facility during the term of the permit. Significant spills and leaks include, but are not limited to, releases of oil or hazardous substances in excess of reportable quantities, ~~and may also include releases of oil or hazardous substances that are not in excess of reporting requirements.~~

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5. d. Sampling data. The plan shall include a summary of existing storm water discharge sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous permit term.

6. 4. Storm water controls.

a. Control measures (BMPs) shall be implemented for all the areas identified in Part III B 3 (summary of potential pollutant sources) to prevent or control pollutants in storm water discharges from the facility. ~~All reasonable steps shall be taken to control or address the quality of discharges from the site that may not originate at the facility.~~ Regulated storm water discharges from the facility include storm water runoff that commingles with storm water discharges associated with industrial activity at the facility. The SWPPP shall describe the type, location and implementation of all BMPs control measures for each area where industrial materials or activities are exposed to storm water.

Selection of BMPs control measures shall take into consideration:

(1) That preventing storm water from coming into contact with polluting materials is generally more effective, and less costly, than trying to remove pollutants from storm water;

(2) ~~BMPs~~ Control measures generally shall be used in combination with each other for most effective water quality protection;

(3) Assessing the type and quantity of pollutants, including their potential to impact receiving water quality, is critical to designing effective control measures;

(4) That minimizing impervious areas at the facility can reduce runoff and improve groundwater recharge and stream base flows in local streams (however, care must be taken to avoid ground water contamination);

(5) Flow attenuation by use of open vegetated swales and natural depressions can reduce in-stream impacts of erosive flows;

(6) Conservation or restoration of riparian buffers will help protect streams from storm water runoff and improve water quality; and

(7) Treatment interceptors (e.g., swirl separators and sand filters) may be appropriate in some instances to minimize the discharge of pollutants.

b. ~~Control measures (Nonnumeric technology based effluent limits)~~ Nonnumeric technology-based effluent limits. The permittee shall implement the following types of BMPs control measures to prevent and control pollutants in the storm water discharges from the facility, unless it can be demonstrated and documented that such controls are not relevant to the discharges (e.g., there are no storage piles containing salt).

(1) Good housekeeping. The permittee shall keep clean all exposed areas of the facility that are potential sources of pollutants to storm water discharges. Typical problem areas include areas around trash containers, storage areas, loading docks, and vehicle fueling and maintenance areas. The plan shall include a schedule for regular pickup and disposal of waste materials, along with routine inspections for leaks and conditions of drums, tanks and containers. ~~The introduction of raw, final or waste materials to exposed areas of the facility shall be minimized to the maximum extent practicable.~~ The generation of dust, along with off site vehicle tracking of raw, final or waste materials, or sediments, shall be minimized to the maximum extent practicable.

(2) Eliminating and minimizing exposure. To the extent practicable, ~~industrial materials and activities manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations)~~ shall be located inside, or protected by a storm-resistant covering to prevent exposure to rain, snow, snowmelt, and runoff. Note: Eliminating exposure at all industrial areas may make the facility eligible for the "Conditional Exclusion for No Exposure" provision of 9VAC25-31-120 E, thereby eliminating the need to have a permit.

(3) Preventive maintenance. The permittee shall have a preventive maintenance program that includes regular inspection, testing, maintenance and repairing of all industrial equipment and systems to avoid ~~breakdowns or failures situations~~ that could result in leaks, ~~spill spills~~ and other releases of pollutants in storm water discharged from the facility. This program is in addition to the specific BMP control measure maintenance required under Part III C (~~Maintenance of BMPs~~) (Maintenance of control measures).

(4) Spill prevention and response procedures. The plan shall describe the procedures that will be followed for preventing and responding to spills and leaks, including:

(a) Preventive measures ~~include, such as~~ barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;

(b) Response procedures ~~shall include, including~~ notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 (2007) and 40 CFR Part 265 (2007). Employees who may cause, detect or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the Pollution Prevention Team;

(c) Procedures for plainly labeling containers (e.g., "used oil," "spent solvents," "fertilizers and pesticides," etc.) that could be susceptible to spillage or leakage to encourage proper handling and facilitate rapid response if spills or leaks occur; and

~~(e) (d) Contact information for individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP, and in other locations where it will be readily available.~~

~~(5) Routine facility inspections. Facility personnel who possess the knowledge and skills to assess conditions and activities that could impact storm water quality at the facility, and who can also evaluate the effectiveness of BMPs shall regularly inspect all areas of the facility where industrial materials or activities are exposed to storm water. These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part III E. At least one member of the Pollution Prevention Team shall participate in the routine facility inspections.~~

~~The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals. The requirement for routine facility inspections is waived for facilities that have maintained an active E3/E4 status. At least once each calendar year, the routine facility inspection must be conducted during a period when a storm water discharge is occurring.~~

~~Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 30 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP, along with the date(s) and description(s) of any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.~~

(5) Salt storage piles or piles containing salt. Storage piles of salt or piles containing salt used for deicing or other commercial or industrial purposes shall be enclosed or covered to prevent exposure to precipitation. The permittee shall implement appropriate measures (e.g., good housekeeping, diversions, containment) to minimize exposure resulting from adding to or removing materials from the pile. All salt storage piles shall be located on an impervious surface. All runoff from the pile, and runoff that comes in contact with salt, including under drain systems, shall be collected and contained within a bermed basin lined with concrete or other impermeable materials, or within an underground storage tank or tanks, or within an above ground storage tank or

tanks, or disposed of through a sanitary sewer (with the permission of the owner of the treatment facility). A combination of any or all of these methods may be used. In no case shall salt contaminated storm water be allowed to discharge directly to the ground or to surface waters.

(6) Employee training. The permittee shall implement a storm water employee training program for the facility. Employee training shall take place, at a minimum, once per calendar year. The storm water employee training program shall include initial training for new hires. The SWPPP shall include a schedule for all types of necessary training, and shall document all training sessions and the employees who received the training. Training shall be provided for all employees who work in areas where industrial materials or activities are exposed to storm water, and for employees who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel, etc.). The training shall cover the components and goals of the SWPPP, and include such topics as spill response, good housekeeping, material management practices, BMP operation and maintenance, etc. The SWPPP shall include a summary of any training performed.

(7) Sediment and erosion control. The plan shall identify areas at the facility that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, ~~and/or~~ and stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation. Flow velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel if the flows would otherwise create erosive conditions.

(8) Management of runoff. The plan shall describe the storm water runoff management practices (i.e., permanent structural BMPs) for the facility. These types of BMPs control measures are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site.

Structural BMPs may require a separate permit under § 404 of the CWA and the Virginia Water Protection Permit Program Regulation (9VAC25-210) before installation begins.

(9) Dust suppression and vehicle tracking of industrial materials. The permittee shall implement control measures to minimize the generation of dust and off-site tracking of raw, final, or waste materials. Storm water collected on-site may be used for the purposes of dust suppression or for spraying stockpiles. Potable water and well water may also be used for this purpose. There shall be no direct discharge to surface waters from dust suppression activities or as a result of spraying stockpiles.

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5. Routine facility inspections. Facility personnel who possess the knowledge and skills to assess conditions and activities that could impact storm water quality at the facility and who can also evaluate the effectiveness of control measures shall regularly inspect all areas of the facility where industrial materials or activities are exposed to storm water. These inspections are in addition to, or as part of, the comprehensive site evaluation required under Part III E. At least one member of the pollution prevention team shall participate in the routine facility inspections.

The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be at a minimum quarterly unless more frequent intervals are specified elsewhere in the permit or written approval is received from the department for less frequent intervals. Inspections shall be performed during periods when the facility is in operation. At least once each calendar year, the routine facility inspection shall be conducted during a period when a storm water discharge is occurring.

The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status. Note: Certain sectors in Part IV have additional inspection requirements. If the VEEP E3/E4 waiver language is not included for the sector specific inspections, these additional inspection requirements may not be waived.

Any deficiencies in the implementation of the SWPPP that are found shall be corrected as soon as practicable, but not later than within 30 days of the inspection, unless permission for a later date is granted in writing by the director. The results of the inspections shall be documented in the SWPPP and shall include at a minimum:

- a. The inspection date and time;
- b. The name(s) and signature(s) of the inspector(s);
- c. Weather information and a description of any discharges occurring at the time of the inspection;
- d. Any previously unidentified discharges of pollutants from the site;
- e. Any control measures needing maintenance or repairs;
- f. Any failed control measures that need replacement;
- g. Any incidents of noncompliance observed; and
- h. Any additional control measures needed to comply with the permit requirements.

C. Maintenance. All BMPs identified in the SWPPP shall be maintained in effective operating condition. Storm water BMPs identified in the SWPPP shall be observed during active operation (i.e., during a storm water runoff event) to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP. The SWPPP shall include a description of

procedures and a regular schedule for preventive maintenance of all BMPs, and shall include a description of the back-up practices that are in place should a runoff event occur while a BMP is off-line. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).

All control measures and structural BMPs identified in the SWPPP shall be maintained in effective operating condition and shall be observed at least annually during active operation (i.e., during a storm water runoff event) to ensure that they are functioning correctly. Where discharge locations are inaccessible, nearby downstream locations shall be observed. The observations shall be documented in the SWPPP.

If site inspections required by Part III B 6-b(5) 5 (Routine facility inspections) or Part III E (Comprehensive site compliance evaluation) identify BMPs that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. In the interim, back-up measures shall be employed and documented in the SWPPP until repairs or maintenance is complete. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair or replacement, and date(s) for repairs, date(s) that the BMP(s) returned to full function, and the justification for any extended maintenance or repair schedules.

## D. Allowable nonstorm Nonstorm water discharges.

1. Discharges of certain sources of nonstorm water are allowable discharges under this permit (see Part I B 1 - Allowable nonstorm water discharges) provided the permittee includes the following information in the SWPPP: (see Part I B, Special Condition No. 1 - Allowable nonstorm water discharges). All other nonstorm water discharges are not authorized and shall be either eliminated or covered under a separate VPDES permit.

- a. Identification of each allowable nonstorm water source, except for flows from fire fighting activities;
- b. The location where the nonstorm water is likely to be discharged; and
- e. Descriptions of appropriate BMPs for each source.

2. If mist blown from cooling towers is included as one of the allowable nonstorm water discharges from the facility, the permittee shall specifically evaluate the discharge for the presence of chemicals used in the cooling tower. The evaluation shall be included in the SWPPP. Annual outfall evaluation for unauthorized discharges.

- a. The SWPPP shall include documentation that all outfalls have been evaluated annually for the presence of unauthorized discharges (i.e., discharges other than storm water; the authorized nonstorm water discharges described in Part I B, Special Condition No. 1; or

discharges covered under a separate VPDES permit, other than this permit). The documentation shall include:

- (1) The date of the evaluation;
- (2) A description of the evaluation criteria used;
- (3) A list of the outfalls or on-site drainage points that were directly observed during the evaluation;
- (4) A description of the results of the evaluation for the presence of unauthorized discharges; and
- (5) The actions taken to eliminate unauthorized discharges if any were identified (i.e., a floor drain was sealed, a sink drain was rerouted to sanitary, or an VPDES permit application was submitted for a cooling water discharge).

b. The permittee may request in writing to the department that the facility be allowed to conduct annual outfall evaluations at 20% of the outfalls. If approved, the permittee shall evaluate at least 20% of the facility outfalls each year on a rotating basis such that all facility outfalls will be evaluated during the period of coverage under this permit.

E. Comprehensive site compliance evaluation. The permittee shall conduct comprehensive site compliance evaluations at least once a each calendar year after coverage under the permit begins. The evaluations shall be done by qualified personnel who possess the knowledge and skills to assess conditions and activities that could impact storm water quality at the facility, and who can also evaluate the effectiveness of BMPs. The personnel conducting the evaluations may be either facility employees or outside constituents personnel hired by the facility.

1. Scope of the compliance evaluation. Evaluations shall include all areas where industrial materials or activities are exposed to storm water, as identified in Part III B 3. The personnel shall evaluate:

- a. Industrial materials, residue or trash that may have or could come into contact with storm water;
- b. Leaks or spills from industrial equipment, drums, barrels, tanks or other containers that have occurred within the past three years;
- c. Off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site;
- d. Tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas;
- e. Evidence of, or the potential for, pollutants entering the drainage system;
- f. Evidence of pollutants discharging to surface waters at all facility outfalls, and the condition of and around the outfall, including flow dissipation measures to prevent scouring;
- g. Review of storm water related training performed, inspections completed, maintenance performed, quarterly visual examinations, and effective operation of BMPs;

h. Annual A summary of the annual outfall evaluation for unauthorized discharges required by subsection D 2 of this section.

~~(1) The SWPPP shall include documentation that all outfalls have been evaluated annually for the presence of unauthorized discharges (i.e., discharges other than storm water; the authorized nonstorm water discharges described in Part I B 1; or discharges covered under a separate VPDES permit, other than this permit.) The documentation shall include:~~

- ~~(a) The date of the evaluation;~~
- ~~(b) A description of the evaluation criteria used;~~
- ~~(c) A list of the outfalls or on site drainage points that were directly observed during the evaluation;~~
- ~~(d) A description of the results of the evaluation for the presence of unauthorized discharges; and~~
- ~~(e) The actions taken to eliminate unauthorized discharges, if any were identified (i.e., a floor drain was sealed, a sink drain was rerouted to sanitary, or an VPDES permit application was submitted for a cooling water discharge.)~~

~~(2) The permittee may request in writing to the department that the facility be allowed to conduct annual outfall evaluations at 20% of the outfalls. If approved, the permittee shall evaluate at least 20% of the facility outfalls each year on a rotating basis such that all facility outfalls will be evaluated during the period of coverage under this permit.~~

i. Results of both visual and any analytical monitoring done during the past year shall be taken into consideration during the evaluation.

2. Based on the results of the evaluation, the SWPPP shall be modified as necessary (e.g., show additional controls on the map required by Part III B 2 c; revise the description of controls required by Part III B 6 to include additional or modified BMPs designed to correct problems identified). Revisions to the SWPPP shall be completed within 30 days following the evaluation, unless permission for a later date is granted in writing by the director. If existing BMPs need to be modified or if additional BMPs are necessary, implementation shall be completed before the next anticipated storm event, if practicable, but not more than 60 days after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the department;

3. Compliance evaluation report. A report shall be written summarizing the scope of the evaluation, name(s) of personnel making the evaluation, the date of the evaluation, and all observations relating to the implementation of the SWPPP, including elements stipulated in Part III E 1 (a) through ~~(f)~~ (i) above. Observations shall include such things as: the location(s) of discharges of pollutants from the site; location(s) of

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previously unidentified sources of pollutants; location(s) of BMPs that need to be maintained or repaired; location(s) of failed BMPs that need replacement; and location(s) where additional BMPs are needed. The report shall identify any incidents of noncompliance that were observed. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II K and maintained with the SWPPP.

4. Where compliance evaluation schedules overlap with routine inspections required under Part III B ~~6-b(5)~~ 5 the annual compliance evaluation may be used as one of the routine inspections.

## F. Signature and plan review.

1. ~~Signature/location~~ Signature and location. The SWPPP, including revisions to the SWPPP to document any corrective actions taken as required by Part I A 5 6, shall be signed in accordance with Part II K, dated, and retained on-site at the facility covered by this permit in accordance with Part II B 2. All other changes to the SWPPP, and other permit compliance documentation, ~~must~~ shall be signed and dated by the person preparing the change or documentation. For inactive facilities, the plan may be kept at the nearest office of the permittee.

2. Availability. The permittee shall ~~make retain a copy of the current SWPPP, annual site compliance evaluation report, and other information required by this permit at the facility, and it shall be immediately available to the department, EPA, or the operator of an MS4 receiving discharges from the site at the time of an on-site inspection~~ or upon request.

3. Required modifications. The permittee shall modify the SWPPP whenever necessary to address all corrective actions required by Part I A 6 a (Data exceeding benchmark concentration values) or Part I A 6 b (Corrective actions). Changes to the SWPPP shall be made in accordance with the corrective action deadlines in Part I A 6 a and Part I A 6 b, and shall be signed and dated in accordance with Part III F 1.

The director may notify the permittee at any time that the SWPPP, BMPs, or other components of the facility's storm water program do not meet one or more of the requirements of this permit. The notification shall identify specific provisions of the permit that are not being met, and may include required modifications to the storm water program, additional monitoring requirements, and special reporting requirements. The permittee shall make any required changes to the SWPPP within 60 days of receipt of such notification, unless permission for a later date is granted in writing by the director, and shall submit a written certification to the director that the requested changes have been made.

## G. Maintaining an updated SWPPP.

1. The permittee shall review and amend the SWPPP as appropriate whenever:

- a. There is construction or a change in design, operation, or maintenance at the facility that has a significant effect on the discharge, or the potential for the discharge, of pollutants from the facility;
- b. Routine inspections or compliance evaluations determine that there are deficiencies in the BMPs;
- c. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;
- d. There is a spill, leak or other release at the facility;
- e. There is an unauthorized discharge from the facility; or
- f. The department notifies the permittee that a TMDL has been developed and applies to the permitted facility, consistent with Part I B, Special Condition No. 6 (Discharges to waters subject to TMDL waste load allocations).

2. SWPPP modifications shall be made within 30 calendar days after discovery, observation or event requiring a SWPPP modification. Implementation of new or modified BMPs (distinct from regular preventive maintenance of existing BMPs described in Part III C) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a BMP or implement additional BMPs shall be documented in the SWPPP.

3. If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part II G of this permit.

## Part IV

### Sector Specific Permit Requirements

The permittee must only comply with the additional requirements of Part IV (9VAC25-151-90 et seq.) that apply to the sector(s) of industrial activity located at the facility. These sector specific requirements are in addition to the "basic" requirements specified in Parts I, II and III of this permit. All numeric effluent limitations and benchmark monitoring concentration values reflect two significant digits, unless otherwise noted.

### **9VAC25-151-90. Sector A - Timber products facilities (including mulch, wood, and bark facilities and mulch dyeing facilities).**

A. Discharges covered under this section.

1. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities generally classified under Standard Industrial

Classification (SIC) Major Group 24 that are engaged in the following activities: cutting timber and pulpwood (those that have log storage or handling areas), mills, including merchant, lath, shingle, cooperage stock, planing, plywood and veneer, and producing lumber and wood materials; wood preserving, manufacturing wood buildings or mobile homes; and manufacturing finished articles made entirely of wood or related materials, except for wood kitchen cabinet manufacturers (SIC Code 2434), which are addressed under Sector W (9VAC25-151-300).

2. The requirements listed under this section also apply to storm water discharges associated with industrial activity from mulch, wood, and bark facilities, including mulch dyeing operations (SIC Code 24991303).

#### B. Special conditions.

1. Prohibition of nonstorm water discharges. Discharges of storm water from areas where there may be contact with chemical formulations sprayed to provide surface protection are not authorized by this permit. These discharges must be covered under a separate VPDES permit. Discharge of wet dye drippings from mulch dyeing operations are also prohibited.

2. Authorized nonstorm water discharges. In addition to the discharges described in Part I B 1, the following nonstorm water discharges may be authorized by this permit provided the nonstorm water component of the discharge is in compliance with 9VAC25-151-90 C and the effluent limitations described in 9VAC25-151-90 D: discharges from the spray down of lumber and wood product storage yards where no chemical additives are used in the spray down waters and no chemicals are applied to the wood during storage.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

#### 1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: processing areas; treatment chemical storage areas; treated wood and residue storage areas; wet decking areas; dry decking areas; untreated wood and residue storage areas; and treatment equipment storage areas.

b. Summary of potential pollutant sources. Where information is available, facilities that have used chlorophenolic, creosote, or chromium-copper-arsenic formulations for wood surface protection or wood preserving activities on-site in the past shall identify in the inventory the following: areas where contaminated soils, treatment equipment, and stored materials still remain, and the management practices employed to minimize the contact of these materials with storm water runoff.

2. Storm water controls. The description of storm water management controls shall address the following areas of the site: log, lumber and ~~other~~ wood product storage areas; residue storage areas; loading and unloading areas; material handling areas; chemical storage areas; and ~~equipment/vehicle~~ equipment and vehicle maintenance, storage and repair areas. Facilities that surface protect ~~and/or~~ or preserve wood products shall address specific BMPs for wood surface protection and preserving activities. Facilities that dye mulch shall address specific BMPs to prevent the discharge of wet dye drippings and to prevent seepage of pollutants to groundwater.

The SWPPP shall address the following minimum components:

a. Good housekeeping. Good housekeeping measures in storage areas, loading and unloading areas, and material handling areas shall be designed to:

- (1) Limit the discharge of wood debris;
- (2) Minimize the leachate generated from decaying wood materials; and
- (3) Minimize the generation of dust.

b. Routine facility inspections. Inspections at processing areas, transport areas, and treated wood storage areas of facilities performing wood surface protection and preservation activities shall be performed monthly to assess the usefulness of practices in minimizing the deposit of treatment chemicals on unprotected soils and in areas that will come in contact with storm water discharges. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

#### D. Numeric effluent limitations.

1. In addition to the numeric effluent limitations described in Part I A 1 c, the following limitations shall be met by existing and new facilities.

Wet deck storage area runoff. Nonstorm water discharges from areas used for the storage of logs where water, without chemical additives, is intentionally sprayed or deposited on logs to deter decay or infestation by insects are required to meet the following effluent limitations: pH shall be within the range of 6.0-9.0, and there will be no discharge of debris. Chemicals are not allowed to be applied to the stored logs. The term "debris" is defined as woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1 in.) diameter round opening and is present in the discharge from a wet deck storage area. Permittees subject to these numeric limitations shall be in compliance with these limitations through the duration of permit coverage.

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Table 90-1-  
Sector A - Numeric Effluent Limitations-

Parameter	Effluent Limitations
Wet Decking Discharges at Log Storage and Handling Areas (SIC 2411)	
pH	6.0 - 9.0 s.u.
Debris (woody material such as bark, twigs, branches, heartwood, or sapwood)	No discharge of debris that will not pass through a 2.54 cm (1") diameter round opening.

2. Compliance monitoring requirements. In addition to the parameters listed above, the permittee shall provide an estimate of the total volume (in gallons) of the discharge sampled.

E. Benchmark monitoring and reporting requirements. Timber product facilities; mulch, wood, and bark facilities; and mulch dyeing facilities are required to monitor their storm water discharges for the pollutants of concern listed in the appropriate section of Table 90-2.

Table 90-2-  
Sector A - Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
General Sawmills and Planing Mills (SIC 2421)	
Total Suspended Solids (TSS)	100 mg/L
Wood Preserving Facilities (SIC 2491)	
Total Recoverable Arsenic <sup>1</sup>	50 µg/L
Total Recoverable Chromium <sup>1</sup>	16 µg/L
Total Recoverable Copper <sup>1</sup>	18 µg/L
Log Storage and Handling Facilities (SIC 2411)	
Total Suspended Solids (TSS)	100 mg/L
Hardwood Dimension and Flooring Mills; Special Products Sawmills, not elsewhere classified; Millwork, Veneer, Plywood and Structural Wood; Wood Containers; Wood Buildings and Mobile Homes; Reconstituted Wood Products; and Wood Products Facilities not elsewhere classified (SIC Codes 2426, 2429, 2431-2439 (except 2434), 2441, 2448, 2449, 2451, 2452, 2493, and 2499).	
Total Suspended Solids (TSS)	100 mg/L
<u>Mulch, Wood, and Bark Facilities (SIC Code 2491303)</u>	
<u>Total Suspended Solids (TSS)</u>	100 mg/L
<u>Biochemical Oxygen Demand (BOD<sub>5</sub>)</u>	30 mg/L

Facilities with Mulch Dyeing/Coloring Operations (SIC Code 2491303): Monitor ONLY those outfalls from the facility that collect runoff from areas where mulch dyeing/coloring activities occur, including but not limited to areas where loading, transporting, and storage of dyed/colored mulch occurs.<sup>2</sup>

<u>Total Suspended Solids (TSS)</u>	<u>100 mg/L</u>
<u>Biochemical Oxygen Demand (BOD<sub>5</sub>)</u>	<u>30 mg/L</u>
<u>Chemical Oxygen Demand (COD)</u>	<u>120 mg/L</u>
<u>Total Recoverable Aluminum</u>	<u>750 mg/L</u>
<u>Total Recoverable Arsenic</u>	<u>150 mg/L</u>
<u>Total Recoverable Cadmium</u>	<u>2.1 mg/L</u>
<u>Total Recoverable Chromium</u>	<u>16 mg/L</u>
<u>Total Recoverable Copper</u>	<u>18 mg/L</u>
<u>Total Recoverable Iron</u>	<u>1.0 mg/L</u>
<u>Total Recoverable Lead</u>	<u>120 mg/L</u>
<u>Total Recoverable Manganese</u>	<u>64 mg/L</u>
<u>Total Recoverable Mercury</u>	<u>1.4 mg/L</u>
<u>Total Recoverable Nickel</u>	<u>470 mg/L</u>
<u>Total Recoverable Selenium</u>	<u>5.0 mg/L</u>
<u>Total Recoverable Silver</u>	<u>3.8 mg/L</u>
<u>Total Recoverable Zinc</u>	<u>120 mg/L</u>
<u>Total Nitrogen</u>	<u>2.2 mg/L</u>
<u>Total Phosphorus</u>	<u>2.0 mg/L</u>

<sup>1</sup>Monitoring for metals (arsenic, chromium and copper) is not required for wood preserving facilities using only oil-based preservatives.

<sup>2</sup>Benchmark monitoring waivers are available to facilities utilizing mulch dye or colorant products that do not contain the specified parameters provided that: (i) monitoring from samples collected during one monitoring period demonstrates that all parameters are nondetectable; (ii) a waiver request is submitted to and approved by the board; and (iii) a certification statement is submitted to the department annually that the facility does not use mulch dyeing products that contain any of the specified parameters.

## 9VAC25-151-110. Sector C - Chemical and allied products manufacturing.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities engaged in manufacturing the following products and generally described by the SIC code shown:

1. Basic industrial inorganic chemicals (including SIC Code 281);

2. Plastic materials and synthetic resins, synthetic rubbers, and cellulosic and other humanmade fibers, except glass (including SIC Code 282);
3. Medicinal chemicals and pharmaceutical products, including the grading, grinding and milling of botanicals (including SIC Code 283).
4. Soap and other detergents, including facilities producing glycerin from vegetable and animal fats and oils; specialty cleaning, polishing, and sanitation preparations; surface active preparations used as emulsifiers, wetting agents, and finishing agents, including sulfonated oils; and perfumes, cosmetics, and other toilet preparations (including SIC Code 284);
5. Paints (in paste and ready-mixed form); varnishes; lacquers; enamels and shellac; putties, wood fillers, and sealers; paint and varnish removers; paint brush cleaners; and allied paint products (including SIC Code 285);
6. Industrial organic chemicals (including SIC Code 286);
7. Nitrogenous and phosphatic basic fertilizers, mixed fertilizer, pesticides, and other agricultural chemicals (including SIC Code 287). Note: SIC Code 287 includes Composting Facilities (SIC Code 2875);
8. Industrial and household adhesives, glues, caulking compounds, sealants, and linoleum, tile, and rubber cements from vegetable, animal, or synthetic plastics materials; explosives; printing ink, including gravure ink, screen process and lithographic inks; miscellaneous chemical preparations, such as fatty acids, essential oils, gelatin (except vegetable), sizes, bluing, laundry sours, and writing and stamp pad ink; industrial compounds, such as boiler and heat insulating compounds; and chemical supplies for foundries (including SIC Code 289); and
9. Ink and paints, including china painting enamels, India ink, drawing ink, platinum paints for burnt wood or leather work, paints for china painting, artists' paints and artists' water colors (SIC Code 3952, limited to those listed; for others in SIC Code 3952 not listed above, see Sector Y (9VAC25-151-320)).

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges in Part I B 1, the following discharges are not covered by this permit: inks, paints, or substances (hazardous, nonhazardous, etc.) resulting from an on-site spill, including materials collected in drip pans; washwaters from material handling and processing areas; or washwaters from drum, tank, or container rinsing and cleaning.

~~C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items.~~

1. ~~Site description.~~
  - a. ~~Site map. The site map shall identify where any of the following may be exposed to precipitation/surface runoff: processing and storage areas; access roads, rail cars and~~

~~tracks; areas where substances are transferred in bulk; and operating machinery.~~

~~b. Summary of potential pollutant sources. A description of the following sources and activities that have potential pollutants associated with them: loading, unloading and transfer of chemicals; outdoor storage of salt, pallets, coal, drums, containers, fuels, fueling stations; vehicle and equipment maintenance/cleaning areas; areas where the treatment, storage or disposal (on site or off site) of waste/wastewater occur; storage tanks and other containers; processing and storage areas; access roads, rail cars and tracks; areas where the transfer of substances in bulk occurs; and areas where machinery operates.~~

~~2. Storm water controls. Good housekeeping. The SWPPP shall include:~~

- a. ~~A schedule for regular pickup and disposal of garbage and waste materials, or a description of other appropriate measures used to reduce the potential for the discharge of storm water that has come into contact with garbage or waste materials;~~
- b. ~~Routine inspections of the condition of drums, tanks and containers for potential leaks.~~

~~D. C. Numeric effluent limitations. In addition to the numeric effluent limitations described in Part I A 1 c, the following effluent limitations shall be met by existing and new discharges with phosphate fertilizer manufacturing runoff. The provisions of this paragraph are applicable to storm water discharges from the phosphate subcategory of the fertilizer manufacturing point source category (40 CFR 418.10 (2006)). The term contaminated storm water runoff shall mean precipitation runoff, that during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product. The concentration of pollutants in storm water discharges shall not exceed the effluent limitations in Table 110-1.~~

Table 110-1-  
Sector C – Numeric Effluent Limitations-

Parameter	Effluent Limitations	
	Daily Maximum	30-day Average
Phosphate Subcategory of the Fertilizer Manufacturing Point Source Category (40 CFR 418.10 (2006)) - applies to precipitation runoff that, during manufacturing or processing, comes into contact with any raw materials, intermediate product, finished product, by-products or waste product (SIC 2874)		
Total Phosphorus (as P)	105 mg/L	35 mg/L
Fluoride	75 mg/L	25 mg/L

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~~E.~~ D. Benchmark monitoring and reporting requirements. Agricultural chemical manufacturing facilities; industrial inorganic chemical facilities; soaps, detergents, cosmetics, and perfume manufacturing facilities; and plastics, synthetics, and resin manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 110-2 below.

Table 110-2-  
Sector C – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Agricultural Chemicals (SIC 2873-2879)	
Total Nitrogen	2.2 mg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	120 µg/L
<u>Total Phosphorus</u>	2.0 mg/L
Industrial Inorganic Chemicals (SIC 2812-2819)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Nitrogen	2.2 mg/L
Soaps, Detergents, Cosmetics, and Perfumes (SIC 2841-2844)	
Total Nitrogen	2.2 mg/L
Total Recoverable Zinc	120 µg/L
Plastics, Synthetics, and Resins (SIC 2821-2824)	
Total Recoverable Zinc	120 µg/L
<u>Composting Facilities (SIC 2875)</u>	
<u>Total Suspended Solids (TSS)</u>	<u>100 mg/L</u>
<u>Biochemical Oxygen Demand (BOD<sub>5</sub>)</u>	<u>30 mg/L</u>
<u>Chemical Oxygen Demand (COD)</u>	<u>120 mg/L</u>
<u>Ammonia</u>	<u>2.14 mg/L</u>
<u>Total Nitrogen</u>	<u>2.2 mg/L</u>
<u>Total Phosphorus</u>	<u>2.0 mg/L</u>

**9VAC25-151-120. Sector D - Asphalt paving and roofing materials and lubricant manufacturers.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities engaged in the following activities: manufacturing asphalt paving and roofing materials, including those facilities commonly identified by SIC Codes 2951 and 2952; portable asphalt

plants (also commonly identified by SIC Code 2951); and manufacturing miscellaneous products of petroleum and coal, including those facilities classified as SIC Code 2992 and 2999.

B. Limitations on coverage. The following storm water discharges associated with industrial activity are not authorized by this section of the permit:

1. Storm water discharges from petroleum refining facilities, including those that manufacture asphalt or asphalt products, that are ~~classified as SIC Code 2911~~ subject to effluent limitation guidelines for the Petroleum Refining Point Source Category (40 CFR 419);
2. Storm water discharges from oil recycling facilities; and
3. Storm water discharges associated with fats and oils rendering.

~~C.~~ C. ~~Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following item: routine facility inspections. Material storage and handling areas, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance, cleaning, and fueling areas, material handling vehicles, equipment and processing areas shall be inspected at least once per month, as part of the maintenance program. The permittee shall ensure that appropriate action is taken in response to the inspection by implementing tracking or follow up procedures.~~

~~D.~~ C. Numeric effluent limitations. In addition to the numeric effluent limitations listed in Part I A c, discharges from areas where production of asphalt paving and roofing emulsions occurs may not exceed the limitations in Table 120-1.

Table 120-1-  
Sector D – Numeric Effluent Limitations-

Parameter	Effluent Limitations	
	Daily Maximum	30-day Average
Discharges from areas where production of asphalt paving and roofing emulsions occurs (SIC 2951, 2952)		
Total Suspended Solids (TSS)	23 mg/L	15 mg/L
Oil and Grease	15 mg/L	10 mg/L
pH	6.0 - 9.0 s.u.	

~~E.~~ D. Benchmark monitoring and reporting requirements. Asphalt paving and roofing materials manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 120-2.

Table 120-2-  
Sector D – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Asphalt Paving and Roofing Materials (SIC 2951, 2952)	
Total Suspended Solids (TSS)	100 mg/L

**9VAC25-151-130. Sector E - Glass, clay, cement, concrete, and gypsum products.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities generally classified under SIC Major Group 32 that are engaged in either manufacturing the following products or performing the following activities: flat, pressed, or blown glass or glass containers; hydraulic cement; clay products including tile and brick; pottery and porcelain electrical supplies; gypsum products; nonclay refractories; minerals and earths, ground or otherwise treated; lime manufacturing; cut stone and stone products; asbestos products; and mineral wool and mineral wool insulation products.

Concrete block and brick facilities (SIC Code 3271), concrete products facilities, except block and brick (SIC Code 3272), and ready-mixed concrete facilities (SIC Code 3273) are not covered by this permit.

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items:

1. Site description and site map. The site map shall identify the locations of the following, if applicable: bag house or other dust control device; ~~recycle/sedimentation~~ recycle or sedimentation pond, clarifier or other device used for the treatment of process wastewater and the areas that drain to the treatment device.

2. Storm water controls. ~~a.~~ Good housekeeping.

(1) a. Facilities shall prevent or minimize the discharge of: spilled cement; aggregate (including sand or gravel); kiln dust; fly ash; settled dust; and other significant materials in storm water from paved portions of the site that are exposed to storm water. Measures used to minimize the presence of these materials may include regular sweeping, or other equivalent measures. The plan shall indicate the frequency of sweeping or equivalent measures. The frequency shall be determined based upon consideration of the amount of industrial activity occurring in the area and frequency of precipitation, but shall not be less than once per week if cement, aggregate, kiln dust; fly ash, or settled dust are being handled or processed.

(2) b. Facilities shall prevent the exposure of fine granular solids (such as cement, fly ash, kiln dust, etc.) to storm water. Where practicable, these materials shall be stored in

enclosed silos or hoppers, buildings, or under other covering.

~~b. Routine facility inspections. The inspection shall take place while the facility is in operation and shall include all of the following areas that are exposed to storm water: material handling areas, aboveground storage tanks, hoppers or silos, dust collection/containment systems, truck wash down/equipment cleaning areas.~~

~~c. Certification of outfall evaluation for unauthorized discharges. Facilities engaged in production of ready mix concrete, concrete block, brick or similar products shall include in the certification a description of measures that ensure that process wastewater that results from washing of trucks, mixers, transport buckets, forms or other equipment are discharged in accordance with a separate VPDES permit or are recycled.~~

C. Numeric effluent limitations. In addition to the numeric effluent limitations described by Part I A 1 c, the following limitations shall be met by existing and new facilities: Cement manufacturing facility, material storage runoff. Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement shall not exceed the limitations in Table 130-1. Runoff from the storage piles shall not be diluted with other storm water runoff or flows to meet these limitations. Any untreated overflow from facilities designed, constructed and operated to treat the volume of material storage pile runoff that is associated with a 10-year, 24-hour rainfall event shall not be subject to the TSS or pH limitations. Facilities subject to these numeric effluent limitations shall be in compliance with these limits upon commencement of coverage and for the entire term of this permit.

Table 130-1-  
Sector E – Numeric Effluent Limitations-

Parameter	Effluent Limitations	
	Daily Maximum	30-day Average
Cement Manufacturing Facility, Material Storage Runoff: Any discharge composed of runoff that derives from the storage of materials including raw materials, intermediate products, finished products, and waste materials that are used in or derived from the manufacture of cement.		
Total Suspended Solids (TSS)	50 mg/L	
pH	6.0 - 9.0 s.u.	

D. Benchmark monitoring and reporting requirements. Clay product manufacturers (SIC 3251-3259, SIC 3261-3269) and lime and gypsum product manufacturers (SIC 3274, 3275) are

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required to monitor their storm water discharges for the pollutants of concern listed in Table 130-2.

Table 130-2-  
Sector E – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Clay Product Manufacturers (SIC 3251-3259, 3261-3269)	
Total Recoverable Aluminum	750 ug/L
Lime and Gypsum Product Manufacturers (SIC 3274, 3275)	
Total Suspended Solids (TSS)	100 mg/L
pH	6.0 - 9.0 s.u.
Total Recoverable Iron	1.0 mg/L

## 9VAC25-151-140. Sector F - Primary metals.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from the following types of facilities in the primary metal industry, and generally described by the SIC code shown:

1. Steel works, blast furnaces, and rolling and finishing mills, including: steel wire drawing and steel nails and spikes; cold-rolled steel sheet, strip, and bars; and steel pipes and tubes (SIC Code 331).
2. Iron and steel foundries, including: gray and ductile iron, malleable iron, steel investment, and steel foundries not elsewhere classified (SIC Code 332).
3. Primary smelting and refining of nonferrous metals, including: primary smelting and refining of copper, and primary production of aluminum (SIC Code 333).
4. Secondary smelting and refining of nonferrous metals (SIC Code 334).
5. Rolling, drawing, and extruding of nonferrous metals, including: rolling, drawing, and extruding of copper; rolling, drawing and extruding of nonferrous metals except copper and aluminum; and drawing and insulating of nonferrous wire (SIC Code 335).
6. Nonferrous foundries (castings), including: aluminum die-castings, nonferrous die-castings, except aluminum, aluminum foundries, copper foundries, and nonferrous foundries, except copper and aluminum (SIC Code 336).
7. Miscellaneous primary metal products, not elsewhere classified, including: metal heat treating, and primary metal products, not elsewhere classified (SIC Code 339).

Activities covered include, but are not limited to, storm water discharges associated with coking operations, sintering plants, blast furnaces, smelting operations, rolling mills, casting operations, heat treating, extruding, drawing, or

forging of all types of ferrous and nonferrous metals, scrap, and ore.

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items.

### 1. Site description.

a. Site map. The site map shall identify where any of the following activities may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: storage or disposal of wastes such as spent ~~solvents/baths~~ solvents and baths, sand, ~~slag/dross~~ slag and dross; liquid storage ~~tanks/drums~~ tanks and drums; processing areas including pollution control equipment (e.g., baghouses); and storage areas of raw materials such as coal, coke, scrap, sand, fluxes, refractories, or metal in any form. In addition, indicate sources where an accumulation of significant amounts of particulate matter could occur from such sources as furnace or oven emissions, losses from ~~coal/coke~~ coal and coke handling operations, etc., and that could result in a discharge of pollutants to surface waters.

b. Summary of potential pollutant sources. The inventory of materials handled at the site that potentially may be exposed to ~~precipitation/runoff~~ precipitation or runoff shall include areas where deposition of particulate matter from process air emissions or losses during material handling activities are possible.

### 2. Storm water controls.

a. Good housekeeping. The SWPPP shall consider implementation of the following measures, or equivalent measures, where applicable.

(1) Establishment of a ~~cleaning/maintenance~~ cleaning and maintenance program for all impervious areas of the facility where particulate matter, dust, or debris may accumulate, especially areas where material ~~loading/unloading~~ loading and unloading, storage, handling, and processing occur.

(2) The paving of areas, where practicable, where vehicle traffic or material storage occur, but where vegetative or other stabilization methods are not practicable. Sweeping programs shall be instituted in these areas as well.

(3) For unstabilized areas of the facility where sweeping is not practical, the permittee shall consider using storm water management devices such as sediment traps, vegetative buffer strips, filter fabric fence, sediment filtering boom, gravel outlet protection, or other equivalent measures, that effectively trap or remove sediment.

b. Routine facility inspections. Inspections shall be conducted ~~monthly, and~~ quarterly. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

Inspections shall address all potential sources of pollutants, including (if applicable):

- (1) Air pollution control equipment (e.g., baghouses, electrostatic precipitators, scrubbers, and cyclones) shall be inspected for any signs of degradation (e.g., leaks, corrosion, or improper operation) that could limit their efficiency and lead to excessive emissions. The permittee shall consider monitoring air flow at ~~inlets/outlets~~ inlets and outlets, or equivalent measures, to check for leaks (e.g., particulate deposition) or blockage in ducts;
- (2) All process or material handling equipment (e.g., conveyors, cranes, and vehicles) shall be inspected for leaks, drips, or the potential loss of materials; and
- (3) Material storage areas (e.g., piles, bins or hoppers for storing coke, coal, scrap, or slag, as well as chemicals stored in ~~tanks/drums~~ tanks and drums) shall be examined for signs of material losses due to wind or storm water runoff.

C. Benchmark monitoring and reporting requirements. Primary metals facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 140 below.

Table 140-  
Sector F – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Steel Works, Blast Furnaces, and Rolling and Finishing Mills (SIC 3312-3317)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Zinc	120 µg/L
Iron and Steel Foundries (SIC 3321-3325)	
Total Recoverable Aluminum	750 µg/L
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	120 µg/L
Rolling, Drawing, and Extruding of Nonferrous Metals (SIC 3351-3357)	
Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L
Nonferrous Foundries (SIC 3363-3369)	

Total Recoverable Copper	18 µg/L
Total Recoverable Zinc	120 µg/L

**9VAC25-151-150. Sector G - Metal mining (ore mining and dressing).**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from active, temporarily inactive and inactive metal mining and ore dressing facilities including mines abandoned on federal lands, as classified under SIC Major Group 10. Coverage is required for facilities that discharge storm water that has come into contact with, or is contaminated by, any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of the operation. SIC Major Group 10 includes establishments primarily engaged in mining of ores, developing mines, or exploring for metallic minerals (ores) and also includes ore dressing and beneficiating operations, whether performed at colocated, dedicated mills or at separate mills, such as custom mills. For the purposes of this section, the term "metal mining" includes any of the separate activities listed above. Covered discharges include:

1. All storm water discharges from inactive facilities;
2. Storm water discharges from the following areas of active and temporarily inactive metal mining facilities: waste ~~rock/overburden~~ rock and overburden piles if composed entirely of storm water and not combining with mine drainage; topsoil piles; off-site ~~haul/access~~ haul and access roads; on-site ~~haul/access~~ haul and access roads constructed of waste ~~rock/overburden~~ rock and overburden if composed entirely of storm water and not combining with mine drainage; on-site ~~haul/access~~ haul and access roads not constructed of waste ~~rock/overburden/spent rock, overburden, or spent~~ ore except if mine drainage is used for dust control; runoff from tailings ~~dams/dikes~~ dams and dikes when not constructed of waste ~~rock/tailings~~ rock or tailings and no process fluids are present; runoff from tailings ~~dams/dikes~~ dams or dikes when constructed of waste ~~rock/tailings~~ rock or tailings and no process fluids are present if composed entirely of storm water and not combining with mine drainage; concentration building if no contact with material piles; mill site if no contact with material piles; ~~office/administrative~~ office or administrative building and housing if mixed with storm water from industrial area; chemical storage area; docking facility if no excessive contact with waste product that would otherwise constitute mine drainage; explosive storage; fuel storage; ~~vehicle/equipment~~ vehicle and equipment maintenance ~~area/building area and building~~; parking areas (if necessary); power plant; truck wash areas if no excessive contact with waste product that would otherwise constitute mine drainage; unreclaimed, disturbed areas outside of active mining area; reclaimed areas

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released from reclamation bonds prior to December 17, 1990; and ~~partially/inadequately~~ partially or inadequately reclaimed areas or areas not released from reclamation bonds;

3. Storm water discharges from exploration and development of metal mining ~~and/or~~ and ore dressing facilities; and

4. Storm water discharges from facilities at mining sites undergoing reclamation.

B. Limitations on coverage. Storm water discharges from active metal mining facilities that are subject to the effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440 (2007)) are not authorized by this permit.

Note: Discharges that come in contact with ~~overburden/waste~~ overburden and waste rock are subject to 40 CFR Part 440 (2007), providing: the discharges drain to a point source (either naturally or as a result of intentional diversion), and they combine with mine drainage that is otherwise regulated under 40 CFR Part 440 (2007). Discharges from ~~overburden/waste~~ overburden and waste rock can be covered under this permit if they are composed entirely of storm water and do not combine with sources of mine drainage that are subject to 40 CFR Part 440 (2007).

C. Special Conditions. Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges in Part I B 1, the following ~~discharges are discharge is~~ not covered by this permit: adit drainage ~~or contaminated springs or seeps~~. Contaminated seeps and springs discharging from waste rock dumps that do not directly result from precipitation events are also not authorized by this permit.

D. Special definitions. The following definitions are not intended to supersede the definitions of active and inactive mining facilities established by 40 CFR 122.26(b)(14)(iii), and are only for this section of the general permit:

"Active metal mining facility" means a place where work or other related activity to the extraction, removal, or recovery of metal ore is being conducted. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

"Active phase" means activities including ~~each step from the extraction through production of a salable product, removal, or recovery of metal ore~~. For surface mines, this definition does not include any land where grading has returned the earth to a desired contour and reclamation has begun.

"Construction phase" means the building of site access roads and removal of overburden and waste rock to expose mineable minerals. The construction phase is not considered part of "mining operations."

"Exploration ~~and development~~ phase" entails exploration and land disturbance activities to determine the financial

viability of a site. ~~Development includes the building of site access roads and removal of overburden and waste rock to expose mineable minerals. The exploration phase is not considered part of "mining operations."~~

"Final stabilization" - a site or portion of a site is "finally stabilized" when: all applicable federal and state reclamation requirements have been implemented.

~~1. All soil disturbing activities at the site have been completed and either of the two following criteria are met:~~

~~a. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or~~

~~b. Equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.~~

~~2. When background native vegetation will cover less than 100% of the ground (e.g., arid areas, beaches), the 70% coverage criteria is adjusted as follows: if the native vegetation covers 50% of the ground, 70% of 50% (0.70 x 0.50 = 0.35) would require 35% total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.~~

"Inactive metal mining facility" means a site or portion of a site where metal mining ~~and/or~~ or milling occurred in the past but is not an active facility as defined in this permit, and where the inactive portion is not covered by an active mining permit issued by the applicable federal or state governmental agency. An inactive metal mining facility has an identifiable owner or operator. Sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials and sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim are not considered either active or inactive mining facilities and do not require a VPDES industrial stormwater permit.

"Mining operation" ~~typically consists of three the active and temporarily inactive phases, any one of which individually qualifies as a "mining activity."~~ The phases are the exploration and development phase, the active phase, and the reclamation phase and the reclamation phase, but excludes the exploration and construction phases.

"Reclamation phase" means activities undertaken, in compliance with applicable mined land reclamation requirements, following the cessation of the "active phase," intended to return the land to its ~~premining~~ use. an appropriate post-mining land use in order to meet applicable federal and state reclamation requirements. The reclamation phase is considered part of "mining operations."

"Temporarily inactive metal mining facility" means a site or portion of a site where metal mining ~~and/or~~ or milling occurred in the past but currently are not being actively

undertaken, and the facility is covered by an active mining permit issued by the applicable federal or state government agency.

E. Clearing, grading, and excavation activities. Clearing, grading, and excavation activities being conducted as part of the exploration and ~~development~~ construction phase of a mining ~~operation~~ activities are covered under this permit.

1. Management practices for clearing, grading, and excavation activities.

a. Selecting and installing control measures. A combination of erosion and sedimentation control measures are required to achieve maximum pollutant prevention and removal. All control measures shall be properly selected, installed, and maintained in accordance with any relevant manufacturer specifications and good engineering practices.

~~b. Removal of sediment. If sediment escapes the site, off-site accumulations of sediment shall be removed at a frequency sufficient to prevent off-site impacts.~~

~~e. b.~~ Good housekeeping. Litter, debris, and chemicals shall be prevented from becoming a pollutant source in storm water discharges.

~~d. Velocity dissipation. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide a nonerosive flow velocity from disturbed areas and from any storm water retention or detention facilities to a water course so that the natural physical and biological characteristics and functions are maintained and protected (e.g., no significant changes in the hydrological regime of the receiving water).~~

~~e. c.~~ Retention and detention of storm water runoff. For drainage locations serving more than one acre, sediment basins ~~and/or~~ or temporary sediment traps should be used. At a minimum, silt fences, vegetative buffer strips, or equivalent sediment controls are required for all down slope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the development area unless a sediment basin providing storage for a calculated volume of runoff from a two-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided. Sediment shall be removed from sediment traps or sedimentation ponds when the design capacity has been reduced by 50%.

~~f. d.~~ Temporary stabilization of disturbed areas. Stabilization measures shall be initiated immediately in portions of the site where development activities have temporarily ~~or permanently~~ ceased, but in no case more than 14 days after the ~~construction activity~~ clearing, grading, and excavation activities in that portion of the site ~~has~~ have temporarily ~~or permanently~~ ceased. In arid, semiarid, and drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within

14 days after mining, exploration, or construction activity has temporarily ~~or permanently~~ ceased, final temporary vegetative stabilization measures shall be initiated as soon as ~~possible~~ practicable. Until ~~full~~ temporary vegetative stabilization is achieved, interim measures such as erosion control blankets with an appropriate seed base and tackifiers shall be employed. In areas of the site where exploration or construction has permanently ceased prior to active mining, temporary stabilization measures shall be implemented to minimize mobilization of sediment or other pollutants until such time as the active mining phase commences.

2. Requirements for inspection of clearing, grading, and excavation activities.

a. Inspection frequency. Inspections shall be conducted at least once every seven calendar days or at least once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater. Inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized, if runoff is unlikely due to winter ~~conditions~~ (e.g., site is covered with ~~snow, ice, or the ground is frozen~~) snow or ice) ~~or frozen conditions~~, or construction is occurring during seasonal ~~arid~~ dry periods in arid areas and semi-arid areas.

~~b. Qualified personnel for inspections. Inspections shall be conducted by qualified personnel. "Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment control who possesses the skills to assess conditions at the construction site that could impact storm water quality and the effectiveness of any sediment and erosion control measures selected to control the quality of storm water discharges from the clearing, grading, and excavation activities.~~

~~e. b.~~ Location of inspections. Inspections shall include all areas of the site disturbed by clearing, grading, and excavation activities and areas used for storage of materials that are exposed to precipitation. Sedimentation and erosion control measures identified in the SWPPP shall be observed to ensure proper operation. Discharge locations shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to state surface waters, where accessible. Where discharge locations are inaccessible, nearby downstream locations shall be inspected to the extent that such inspections are practicable. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.

~~f. c.~~ Inspection reports. For each inspection required above, an inspection report shall be completed. At a minimum, the inspection report shall include:

- (1) The inspection date;

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- (2) Names, titles, and qualifications of personnel making the inspection;
- (3) Weather information for the period since the last inspection (or note if it is the first inspection) including a best estimate of the beginning of each storm event, duration of each storm event, approximate amount of rainfall for each storm event (in inches), and whether any discharges occurred;
- (4) Weather information and a description of any discharges occurring at the time of the inspection;
- (5) Location(s) of discharges of sediment or other pollutants from the site;
- (6) Location(s) of BMPs that need to be maintained;
- (7) Location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location;
- (8) Location(s) where additional BMPs are needed that did not exist at the time of inspection; and
- (9) Corrective action(s) required, including any changes to the SWPPP necessary and implementation dates.

A record of each inspection and of any actions taken in accordance with this section shall be retained as part of the SWPPP for at least three years from the date that permit coverage expires or is terminated. The inspection reports shall identify any incidents of noncompliance with the permit conditions. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the clearing, grading, and excavation activities are in compliance with the SWPPP and this permit. The report shall be signed in accordance with Part II K of the permit.

### ~~3. Maintenance of controls for clearing, grading, and excavation activities:~~

- ~~a. Maintenance of BMPs. All erosion and sediment control measures and other protective measures identified in the SWPPP shall be maintained in effective operating condition. If site inspections required by subdivision 2 of this subsection identify BMPs that are not operating effectively, maintenance shall be performed as soon as possible and before the next storm event whenever practicable to maintain the continued effectiveness of storm water controls.~~
- ~~b. Modification of BMPs. Existing BMPs need to be modified or, if additional BMPs are necessary for any reason, implementation shall be completed before the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation shall be documented in the SWPPP and alternative BMPs shall be implemented as soon as possible.~~
- ~~c. Maintenance of sediment traps and ponds. Sediment from sediment traps or sedimentation ponds shall be removed when design capacity has been reduced by 50%.~~

### 4. ~~3.~~ Requirements for cessation of clearing, grading, and excavation activities.

a. Inspections and maintenance. Inspections and maintenance of control measures, including BMPs associated with clearing, grading, and excavation activities being conducted as part of the exploration and construction phase of a mining operation shall continue until final stabilization has been achieved on all portions of the disturbed area, or until the commencement of the active mining phase for those areas that have been temporarily stabilized as a precursor to mining.

b. Final stabilization. Stabilization measures shall be initiated immediately in portions of the site where ~~development~~ exploration or construction activities have permanently ceased, but in no case more than 14 days after the exploration or construction activity in that portion of the site has permanently ceased. In arid, semiarid, and drought-stricken areas, or in areas subject to snow or freezing conditions, where initiating perennial vegetative stabilization measures is not possible within 14 days after exploration or construction activity has ~~temporarily or~~ permanently ceased, final vegetative stabilization measures shall be initiated as soon as possible. Until final stabilization is achieved temporary stabilization measures, such as erosion control blankets with an appropriate seed base and tackifiers, shall be used.

F. Storm water pollution prevention plan requirements for active, inactive, and temporarily inactive metal mining facilities and sites undergoing reclamation. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items.

#### ~~1. SWPPP requirements for active, inactive, and temporarily inactive metal mining facilities, and sites undergoing reclamation.~~

##### ~~a. 1.~~ Site description.

(1) ~~a.~~ Activities at the facility. A description of the mining and associated activities taking place at the site that can potentially affect storm water discharges covered by this permit. The description shall include a general description of the location of the site relative to major transportation routes and communities.

(2) ~~b.~~ Site map. The site map shall identify the locations of the following, as appropriate: mining/milling mining and milling site boundaries; access and haul roads; an outline of the drainage areas of each storm water outfall within the facility, and an indication of the types of discharges from the drainage areas; location(s) of all permitted discharges covered under an individual VPDES permit; outdoor equipment storage, fueling and maintenance areas; materials handling areas; outdoor manufacturing, storage or material disposal areas; outdoor storage areas for chemicals and explosives; areas used for storage of overburden, materials, soils or wastes;

location of mine drainage (where water leaves mine) or any other process water; tailings ~~piles/ponds~~ piles and ponds, both proposed and existing; heap leach pads; points of discharge from the property for mine ~~drainage/process~~ drainage and process water; surface waters; boundary of tributary areas that are subject to effluent limitations guidelines; and location(s) of reclaimed areas.

b. 2. Summary of potential pollutant sources. For each area of the ~~mine/mill~~ mine or mill site where storm water discharges associated with industrial activities occur, the plan shall identify the types of pollutants likely to be present in significant amounts (e.g., heavy metals, sediment). The following factors shall be considered: the mineralogy of the ore and waste rock (e.g., acid forming); toxicity and quantity of chemicals used, produced or discharged; the likelihood, ~~if any~~, of contact with storm water; vegetation of site, ~~if any~~; and history of significant ~~leaks/spills~~ leaks and spills of toxic or hazardous pollutants. A summary of any existing ore or waste ~~rock/overburden~~ rock and overburden characterization data and test results for potential generation of acid rock shall also be included. If the ore or waste ~~rock/overburden~~ rock and overburden characterization data are updated due to a change in the ore type being mined, the SWPPP shall be updated with the new data.

e. 3. Storm water controls.

(1) a. Routine facility inspections. ~~Sites Except for areas subject to clearing, grading, and excavation activities subject to subdivision E 2 of this section, sites~~ shall be inspected at least ~~monthly~~ quarterly unless adverse weather conditions make the site inaccessible. The requirement for routine facility inspections is waived for facilities that have maintained an active VEPP E3/E4 status.

(2) b. Employee training. Employee training shall be conducted at least annually at active mining and temporarily inactive sites. All employee training shall be documented in the SWPPP.

(3) c. Structural ~~BMPs~~ control measures. Each of the following ~~BMPs~~ control measures shall be considered in the SWPPP. The potential pollutants identified in ~~subpart F subdivision 1 b above~~ of this subsection shall determine the priority and appropriateness of the ~~BMPs~~ control measures selected. If ~~BMPs~~ control measures are implemented or planned but are not listed here (e.g., substituting a less toxic chemical for a more toxic one), descriptions of them shall be included in the SWPPP.

~~(a) Sediment and erosion control. The measures to consider include: diversion of flow away from areas susceptible to erosion (measures such as interceptor dikes and swales, diversion dikes, curbs and berms); stabilization methods to prevent or minimize erosion (such as temporary or permanent seeding; vegetative~~

~~buffer strips; protection of trees; topsoiling; soil conditioning; contouring; mulching; geotextiles (matting, netting, or blankets); riprap; gabions; and retaining walls); and structural methods for controlling sediment (such as check dams; rock outlet protection; level spreaders; gradient terraces; straw bale barriers; silt fences; gravel or stone filter berms; brush barriers; sediment traps; grass swales; pipe slope drains; earth dikes; other controls such as entrance stabilization, waterway crossings or wind breaks; or other equivalent measures).~~

~~(b) (1) Storm water diversion. A description of how and where storm water will be diverted away from potential pollutant sources to prevent storm water contamination. BMP options may include the following: interceptor dikes and swales; diversion dikes, curbs and berms; pipe slope drains; subsurface drains; drainage/storm drainage and storm water conveyance systems (channels or gutters, open top box culverts and waterbars; rolling dips and road sloping; roadway surface water deflector and culverts) or equivalent measures.~~

~~(c) Management of runoff. The potential pollutant sources given in subdivision 1 b of this subsection shall be considered when determining reasonable and appropriate measures for managing runoff.~~

~~(d) (2) Capping. When capping of a contaminant source is necessary, the source being capped and materials and procedures used to cap the contaminant source shall be identified.~~

~~(e) (3) Treatment. If treatment of a storm water discharge is necessary to protect water quality, include a description of the type and location of storm water treatment that will be used. Storm water treatments include the following: chemical or physical systems; oil/water oil and water separators; artificial wetlands; etc. The permittee is encouraged to use both passive and/or and active treatment of storm water runoff. Treated runoff may be discharged as a storm water source regulated under this permit provided the discharge is not combined with discharges subject to effluent limitation guidelines for the Ore Mining and Dressing Point Source Category (40 CFR Part 440 (2007)).~~

~~(f) (4) Certification of discharge testing. The permittee shall test or evaluate all outfalls covered under this permit for the presence of specific mining-related nonstorm water discharges such as seeps or adit discharges or discharges subject to effluent limitations guidelines (e.g., 40 CFR Part 440 (2007)), such as mine drainage or process water. Alternatively (if applicable), the permittee may certify in the SWPPP that a particular discharge composed of commingled storm water and nonstorm water is covered under a separate VPDES permit; and that permit subjects the nonstorm water portion to effluent limitations prior to any commingling.~~

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This certification shall identify the nonstorm water discharges, the applicable VPDES permit(s), the effluent limitations placed on the nonstorm water discharge by the permit(s), and the points at which the limitations are applied.

2. G. Termination of permit coverage.

~~a. 1.~~ Termination of permit coverage for sites reclaimed after December 17, 1990. A site or a portion of a site that has been released from applicable state or federal reclamation requirements after December 17, 1990, is no longer required to maintain coverage under this permit, ~~provided that the covered storm water discharges do not have the potential to cause or contribute to violations of state water quality standards.~~ If the site or portion of a site reclaimed after December 17, 1990, was not subject to reclamation requirements, the site or portion of the site is no longer required to maintain coverage under this permit if the site or portion of the site has been reclaimed as defined in ~~subpart 2-b below~~ subdivision 2 of this subsection.

~~b. 2.~~ Termination of permit coverage for sites reclaimed before December 17, 1990. A site or portion of a site that was released from applicable state or federal reclamation requirements before December 17, 1990, or that was otherwise reclaimed before December 17, 1990, is no longer required to maintain coverage under this permit if the site or portion of the site has been reclaimed. A site or portion of a site is considered to have been reclaimed if: (i) storm water runoff that comes into contact with ~~(i)~~ raw materials, intermediate byproducts, finished products, and waste products does not have the potential to cause or contribute to violations of state water quality standards, (ii) soil-disturbing activities related to mining at the sites or portion of the site have been completed, (iii) the site or portion of the site has been stabilized to minimize soil erosion, and (iv) as appropriate depending on location, size, and the potential to contribute pollutants to storm water discharges, the site or portion of the site has been revegetated, will be amenable to natural revegetation, or will be left in a condition consistent with the post-mining land use.

H. Inactive and unstaffed sites. Permittees in Sector G seeking to exercise a waiver from the quarterly visual assessment and routine facility inspection requirements for inactive and unstaffed sites (including temporarily inactive sites) are conditionally exempt from the requirement to certify that "there are no industrial materials or activities exposed to stormwater" in Part I A 4.

This exemption is conditioned on the following:

1. If circumstances change and the facility becomes active or staffed, this exception no longer applies and the permittee shall immediately begin complying with the quarterly visual assessment and routine facility inspection requirements; and

2. The board retains the authority to revoke this exemption and the monitoring waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Subject to the two conditions in subdivisions 1 and 2 of this subsection, if a facility is inactive and unstaffed, the permittee is waived from the requirement to conduct quarterly visual assessments and routine facility inspections. The permittee is not waived from conducting the Part III E comprehensive site inspection. The board encourages the permittee to inspect the site more frequently when there is reason to believe that severe weather or natural disasters may have damaged control measures.

G. I. Benchmark monitoring and reporting requirements. Note: There are no benchmark monitoring requirements for inactive and unstaffed sites that have received a waiver in accordance with Part I A 4 (Inactive and unstaffed sites).

1. Copper ore mining and dressing facilities. Active copper ore mining and dressing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 150-1 below.

2. Discharges from waste rock and overburden piles at active sites, ~~inactive sites, and sites undergoing reclamation.~~ Discharges from waste rock and overburden piles at active sites, ~~inactive sites, and sites undergoing reclamation~~ shall be analyzed for the parameters listed in Table 150-2. Facilities shall also monitor for the parameters listed in Table 150-3. The director may also notify the facility that additional monitoring must be performed to accurately characterize the quality and quantity of pollutants discharged from the waste ~~rock/overburden~~ rock or overburden piles.

Table 150-1:  
Sector G – Benchmark Monitoring Requirements - Copper Ore Mining and Dressing Facilities-

Pollutants of Concern	Benchmark Concentration
Active Copper Ore Mining and Dressing Facilities (SIC 1021)	
Total Suspended Solids (TSS)	100 mg/L

Table 150-2:  
Sector G – Benchmark Monitoring Requirements - Discharges from Waste Rock and Overburden Piles from Active Ore Mining or Dressing Facilities, ~~Inactive Ore Mining or Dressing Facilities, and Sites Undergoing Reclamation.~~

Pollutants of Concern	Benchmark Concentration
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Iron Ores; Copper Ores; Lead and Zinc Ores; Gold and Silver Ores; Ferroalloy Ores Except Vanadium; Miscellaneous Metal Ores (SIC Codes 1011, 1021, 1031, 1041, 1044, 1061, 1081, 1094, 1099)		Platinum Ore			Cadmium (H), Copper (H), Mercury, Lead (H), Zinc (H).
Total Suspended Solids (TSS)	100 mg/L	Titanium Ore	X	X	Iron, Nickel (H), Zinc (H).
Turbidity (NTUs)	50 NTU	Vanadium Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
pH	6.0 - 9.0 s.u.				
Hardness (as CaCO <sub>3</sub> )	no benchmark value	Copper, Lead, Zinc, Gold, Silver and Molybdenum	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Mercury, Zinc (H).
Total Recoverable Antimony	640 µg/L				
Total Recoverable Arsenic	50 µg/L	Uranium, Radium and Vanadium	X	X	Chemical Oxygen Demand, Arsenic, Radium (Dissolved and Total Recoverable), Uranium, Zinc (H).
Total Recoverable Beryllium	130 µg/L				
Total Recoverable Cadmium	2.1 µg/L				
Total Recoverable Copper	18 µg/L				
Total Recoverable Iron	1.0 mg/L				
Total Recoverable Lead	120 µg/L				
Total Recoverable Mercury	1.4 µg/L				
Total Recoverable Nickel	470 µg/L				
Total Recoverable Selenium	5.0 µg/L				
Total Recoverable Silver	3.8 µg/L				
Total Recoverable Zinc	120 µg/L				

Note: (H) indicates that hardness ~~must~~ shall also be measured when this pollutant is measured.

**9VAC25-151-160. Sector H - Coal mines and coal mining-related facilities.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from coal mining-related areas (SIC Major Group 12) if (i) they are not subject to effluent limitations guidelines under 40 CFR Part 434 (2007) or (ii) they are not subject to the standards of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (30 USC § 1201 et seq.) and the Virginia Department of Mines, Minerals and Energy's individual permit requirements.

The requirements of this section shall apply to storm water discharges from coal mining-related activities exempt from SMCRA, including the public financed exemption, the 16-2/3% exemption, the private use exemption, the under 250 tons exemption, the nonincidental tippie exemption, and the exemption for coal piles and preparation plants associated with the end user. Storm water discharges from the following portions of eligible coal mines and coal mining related facilities may be eligible for this permit: haul roads (nonpublic roads on which coal or coal refuse is conveyed), access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways), railroad spurs, sidings, and internal haulage lines (rail lines used for hauling coal within the facility property and to off-site commercial railroad lines or loading areas); conveyor belts,

Table 150-3-  
Sector G – Additional Monitoring Requirements for Discharges ~~From from~~ Waste Rock and Overburden Piles ~~From from~~ Active Ore Mining or Dressing Facilities, ~~Inactive Ore Mining or Dressing Facilities, and Sites Undergoing Reclamation.~~

Type of Ore Mined	Pollutants of Concern		
	TSS (mg/L)	pH	Metals, Total Recoverable
Tungsten Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Nickel Ore	X	X	Arsenic, Cadmium (H), Copper (H), Lead (H), Zinc (H).
Aluminum Ore	X	X	Iron.
Mercury Ore	X	X	Nickel (H).
Iron Ore	X	X	Iron (Dissolved).

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chutes, and aerial tramway haulage areas (areas under and around coal or refuse conveyor areas, including transfer stations); and equipment storage and maintenance yards, coal handling buildings and structures, coal tipples, coal loading facilities and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas).

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges in Part I B 1, the following discharges are not covered by this permit: discharges from pollutant seeps or underground drainage from inactive coal mines and refuse disposal areas that do not result from precipitation events and discharges from floor drains in maintenance buildings and other similar drains in mining and preparation plant areas.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include at a minimum, the following items.

## 1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface precipitation~~ or surface runoff:

~~(1) Drainage direction and discharge points from all applicable mining-related areas described in subsection A of this section~~ Haul and access roads;

(2) Railroad spurs, sliding, and internal hauling lines;

(3) Conveyor belts, chutes, and aerial tramways;

(4) Equipment storage and maintenance yards;

(5) Coal handling buildings and structures;

(6) Inactive mines and related areas;

~~(2)~~ (7) Acidic spoil, refuse or unreclaimed disturbed areas; and

~~(3)~~ (8) Liquid storage tanks containing pollutants such as caustics, hydraulic fluids and lubricants.

b. Summary of potential pollutant sources. A description of the potential pollutant sources from the following activities: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic ~~refuse/spoil~~ refuse or spoil.

## 2. Storm water controls.

a. Good housekeeping. As part of the facility's good housekeeping program, the permittee shall consider the following: using sweepers, covered storage, and watering of haul roads to minimize dust generation; and conservation of vegetation (where possible) to minimize erosion.

b. Preventive maintenance. The permittee shall also perform inspections of storage tanks and pressure lines

for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.

c. Routine facility inspections. Sites shall be inspected at least quarterly unless adverse weather conditions make the site inaccessible. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

3. Comprehensive site compliance evaluation. The evaluation program shall also include inspections for pollutants entering the drainage system from activities located on or near coal mining-related areas. Among the areas to be inspected: haul and access roads; railroad spurs, sliding and internal hauling lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling ~~buildings/structures~~ buildings and structures; and inactive mines and related areas.

D. Inactive and unstaffed sites. Permittees in Sector H seeking to exercise a waiver from the quarterly visual assessment and routine facility inspection requirements for inactive and unstaffed sites (including temporarily inactive sites) are conditionally exempt from the requirement to certify that "there are no industrial materials or activities exposed to stormwater" in Part I A 4.

This exemption is conditioned on the following:

1. If circumstances change and the facility becomes active or staffed, this exception no longer applies and the permittee shall immediately begin complying with the quarterly visual assessment requirements and routine facility inspection requirements; and

2. The board retains the authority to revoke this exemption and the monitoring waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to an instream excursion above an applicable water quality standard, including designated uses.

Subject to the two conditions in subdivisions 1 and 2 of this subsection, if a facility is inactive and unstaffed, the permittee is waived from the requirement to conduct quarterly visual assessments and routine facility inspections. The permittee is not waived from conducting the Part III E comprehensive site inspection. The board encourages the permittee to inspect the site more frequently when there is reason to believe that severe weather or natural disasters may have damaged control measures.

~~D.~~ E. Benchmark monitoring and reporting requirements. Coal mining facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 160. Note: There are no benchmark monitoring requirements for inactive and unstaffed sites that have received a waiver in accordance with Part I A 4 (Inactive and unstaffed sites).

Table 160-  
Sector H - Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Coal Mines and Related Areas (SIC 1221-1241)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Suspended Solids (TSS)	100 mg/L

**9VAC25-151-170. Sector I - Oil and gas extraction and refining.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from oil and gas extraction and refining facilities listed under SIC Major Group 13 which have had a discharge of a reportable quantity (RQ) of oil or a hazardous substance for which notification is required under 40 CFR 110.6 (2007), 40 CFR 117.21 (2007) or 40 CFR 302.6 (2007). These include oil and gas exploration, production, processing, or treatment operations, or transmission facilities that discharge storm water contaminated by contact with or that has come into contact with any overburden raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. Industries in SIC Major Group 13 include the extraction and production of crude oil, natural gas, oil sands and shale; the production of hydrocarbon liquids and natural gas from coal; and associated oilfield service, supply and repair industries. This section also covers petroleum refineries listed under SIC Code 2911.

Contaminated storm water discharges from petroleum refining or drilling operations that are subject to nationally established BAT or BPT guidelines found at 40 CFR Part 419 (2006) and 40 CFR Part 435 (2007) respectively are not authorized by this permit.

Note: most contaminated discharges from petroleum refining and drilling facilities are subject to these effluent guidelines and are not eligible for coverage under this permit.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges in Part I B 1, the following discharges are not covered by this permit: discharges of vehicle and equipment washwater, including tank cleaning operations. Alternatively, washwater discharges must be authorized under a separate VPDES permit, or be discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: reportable quantity (RQ) releases; locations used for the treatment, storage or disposal of wastes; processing areas and storage areas; chemical mixing areas; construction and drilling areas; all areas subject to the effluent guidelines requirement of "No Discharge" in accordance with 40 CFR 435.32 (2007) and the structural controls to achieve compliance with the "No Discharge" requirement.

b. Summary of potential pollutant sources.

(1) The plan shall also include a description of the potential pollutant sources from the following activities: chemical, cement, mud or gel mixing activities; drilling or mining activities; and equipment cleaning and rehabilitation activities.

(2) The plan shall include information about the RQ release which triggered the permit application requirements, including: the nature of the release (e.g., spill of oil from a drum storage area); the amount of oil or hazardous substance released; amount of substance recovered; date of the release; cause of the release (e.g., poor handling techniques and lack of containment in the area); areas affected by the release, including land and waters; procedure to cleanup release; actions or procedures implemented to prevent or improve response to a release; and remaining potential contamination of storm water from release (taking into account human health risks, the control of drinking water intakes, and the designated uses of the receiving water).

2. Storm water controls. ~~a. Routine facility inspections. All equipment and areas addressed in the SWPPP shall be inspected at least monthly. Equipment and vehicles which store, mix (including all on site and off site mixing tanks) or transport chemicals/hazardous materials (including those transporting supplies to oil field activities) will be inspected on a monthly basis. For temporarily or permanently inactive oil and gas extraction facilities within Major SIC Group 13, which are remotely located and unstaffed, the inspections shall be performed at least annually.~~ ~~b. ;~~ Sediment and erosion control. The erosion control requirement for well drillings and ~~sand/shale~~ sand or shale mining areas are as follows:

~~(1)~~ a. Site description. Each plan shall provide a description of the following:

~~(a)~~ (1) A description of the nature of the exploration activity;

~~(b)~~ (2) Estimates of the total area of the site and the area of the site that is expected to be disturbed due to the exploration activity;

~~(c)~~ (3) An estimate of the runoff coefficient of the site;

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~~(4)~~ (4) A site map indicating drainage patterns and approximate slopes; and

~~(5)~~ (5) The name of all receiving water(s).

(2) b. Vegetative controls. The SWPPP shall include a description of vegetative practices designed to preserve existing vegetation where attainable and revegetate open areas as soon as practicable after grade drilling. Such practices may include: temporary or permanent seeding, mulching, sod stabilization, vegetative buffer strips, tree protection practices. The permittee shall initiate appropriate vegetative practices on all disturbed areas within 14 calendar days of the last activity at that area.

~~(3) Off site vehicle tracking of sediments shall be minimized.~~

(4) c. Procedures in the plan shall provide that all erosion controls on the site are inspected at least once every seven calendar days.

e. Good housekeeping measures.

~~(1) Vehicle and equipment storage areas. The storage of vehicles and equipment awaiting or having completed maintenance shall be confined to designated areas (delineated on the site map). The plan shall describe measures that prevent or minimize contamination of the storm water runoff from these areas (e.g., drip pans under equipment, indoor storage, use of berms and dikes, or other equivalent measures.~~

~~(2) Materials and chemical storage areas. Storage units of all chemicals and materials shall be maintained in good condition so as to prevent contamination of storm water. Hazardous materials shall be plainly labeled.~~

~~(3) Chemical mixing areas. The plan shall describe measures that prevent or minimize contamination of the storm water runoff from chemical mixing areas.~~

~~d. Contact with waste water pollutants at exploration and production facilities. The permittee shall take all measures necessary to prevent the discharge of storm water that has come into contact with waste water pollutants from any sources associated with production, field exploration, drilling, well completion, or well treatment (i.e., produced water, drilling muds, drill cuttings, and produced sand).~~

Sector J – Mineral Mining and Dressing (SIC 1411-1499). Facilities described by this sector are not covered by this general permit. Facilities with storm water discharges that fall under this sector should apply for coverage under the VPDES Nonmetallic Mineral Mining General Permit (VAG 84).

## **9VAC25-151-180. Sector K - Hazardous waste treatment, storage, or disposal facilities.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities that treat, store, or dispose of hazardous wastes, including those that are

operating under interim status or a permit under subtitle C of RCRA (Industrial Activity Code "HZ"). Disposal facilities that have been properly closed and capped, or clean closed, and have no significant materials exposed to storm water, ~~are considered inactive and~~ do not require permits this permit.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general prohibition of nonstorm water discharges in Part I B 1, the following discharges are not covered by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory-derived wastewater and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

C. Definitions.

"Contaminated storm water" means storm water that comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined in this section. Some specific areas of a landfill that may produce contaminated storm water include, but are not limited to: the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.

"Drained free liquids" means aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfiling.

~~"Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.~~

"Landfill" means an area of land or an excavation in which wastes are placed for permanent disposal, that is not a land application or land treatment unit, surface impoundment, underground injection well, waste pile, salt dome formation, a salt bed formation, an underground mine or a cave as these terms are defined in 40 CFR 257.2 (2006), 40 CFR 258.2 (2006) and 40 CFR 260.10 (2007).

"Landfill wastewater" as defined in 40 CFR Part 445 (2007) (Landfills Point Source Category) means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, noncontaminated storm water, contaminated ground water, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

"Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

"Noncontaminated storm water" means storm water that does not come into direct contact with landfill wastes, the

waste handling and treatment areas, or landfill wastewater as defined above. Noncontaminated storm water includes storm water that flows off the cap, cover, intermediate cover, daily cover, and/or final cover of the landfill.

"Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

"Surface impoundment" means a facility or part of a facility that is a natural topographic depression, man made excavation or diked area formed primarily of earthen materials (although it may be lined with man made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds and lagoons.

D. Numeric effluent limitations. As set forth at 40 CFR Part 445 Subpart A (2007), the numeric limitations in Table 180-1 apply to contaminated storm water discharges from hazardous waste landfills subject to the provisions of RCRA Subtitle C at 40 CFR Parts 264 (Subpart N) (2007) and 265 (Subpart N) (2007) except for any of the following facilities described in subdivisions 1 through 4 of this subsection:

1. Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;
2. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N (2007) as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;
3. Landfills operated in conjunction with Centralized Waste Treatment (CWT) facilities subject to 40 CFR Part 437 (2007) so long as the CWT facility commingles the landfill wastewater with other nonlandfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or
4. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

Table 180-1-  
Sector K – Numeric Effluent Limitations-

Parameter	Effluent Limitations	
	Maximum Daily	Maximum Monthly Average
Hazardous Waste Treatment, Storage, or Disposal Facilities (Industrial Activity Code "HZ") Subject to the Provisions of 40 CFR Part 445 Subpart A (2007).		
Biochemical Oxygen Demand (BOD <sub>5</sub> )	220 mg/L	56 mg/L
Total Suspended Solids (TSS)	88 mg/L	27 mg/L
Ammonia	10 mg/L	4.9 mg/L
Alpha Terpineol	0.042 mg/L	0.019 mg/L
Aniline	0.024 mg/L	0.015 mg/L
Benzoic Acid	0.119 mg/L*	0.073 mg/L
Naphthalene	0.059 mg/L	0.022 mg/L
p-Cresol	0.024 mg/L	0.015 mg/L
Phenol	0.048 mg/L	0.029 mg/L
Pyridine	0.072 mg/L	0.025 mg/L
Arsenic (Total)	1.1 mg/L	0.54 mg/L
Chromium (Total)	1.1 mg/L	0.46 mg/L
Zinc (Total)	0.535 mg/L*	0.296 mg/L*
pH	Within the range of 6.0 - 9.0 s.u.	

\*These effluent limitations are three significant digits for reporting purposes.

E. Benchmark monitoring and reporting requirements. Permittees with hazardous waste treatment, storage, or disposal facilities (TSDFs) are required to monitor their storm water discharges for the pollutants of concern listed in Table 180-2. These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table 180-1.

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Table 180-2-  
Sector K – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Hazardous Waste Treatment, Storage, or Disposal Facilities (Industrial Activity Code "HZ")	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L
Total Suspended Solids (TSS)	100 mg/L
Total Organic Carbon (TOC)	110 mg/L
Total Recoverable Arsenic	50 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Cyanide	22 µg/L
Total Recoverable Lead	120 µg/L
<u>Total Recoverable Magnesium</u>	<u>64 µg/L</u>
Total Recoverable Mercury	1.4 µg/L
Total Recoverable Selenium	5.0 µg/L
Total Recoverable Silver	3.8 µg/L

## 9VAC25-151-190. Sector L - Landfills, land application sites and open dumps.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from waste disposal at landfills, land application sites, and open dumps that receive or have received industrial wastes (Industrial Activity Code "LF"), including sites subject to regulation under Subtitle D of RCRA. ~~Open dumps are solid waste disposal units that are not in compliance with state/federal criteria established under RCRA Subtitle D.~~ Landfills, land application sites, and open dumps that have storm water discharges from other types of industrial activities such as vehicle maintenance, truck washing, ~~and/or~~ and recycling may be subject to additional requirements specified elsewhere in this permit. This permit does not cover discharges from landfills that receive only municipal wastes. Landfills that have been properly closed and capped in accordance with 9VAC20-81-160 and 9VAC20-81-170 and have no significant materials exposed to storm water do not require this permit. Landfills closed in accordance with regulations or permits in effect prior to December 21, 1988, do not require this permit, unless significant materials are exposed to storm water.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: leachate, gas collection condensate, drained free liquids, contaminated ground water, laboratory wastewater, and contact washwater from washing truck,

equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

### C. Definitions.

"Contaminated storm water" means storm water that comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater ~~as defined below.~~ Some ~~specific~~ areas of a landfill that may produce contaminated storm water include, but are not limited to, ~~the open working face of an active landfill with exposed waste (no cover added);~~ the areas around wastewater treatment operations; trucks, equipment, or machinery that has been in direct contact with the waste; and waste dumping areas.

"Drained free liquids" means aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfilling.

"Landfill wastewater" as defined in 40 CFR Part 445 (~~2007~~) (Landfills Point Source Category) means all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, noncontaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill ~~process~~ wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas that have come in direct contact with solid waste at the landfill facility.

"Leachate" means liquid that has passed through or emerged from solid waste and contains soluble, suspended, or miscible materials removed from such waste.

"Noncontaminated storm water" means storm water that does not come into direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater as defined above. Noncontaminated storm water includes storm water that flows off the cap, ~~cover,~~ intermediate cover, ~~daily cover,~~ and/or or final cover of the landfill.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to present a threat of a release of harmful substances into the environment or present a hazard to human health. Such a site is subject to the open dump criteria in 9VAC20-81-45.

D. Storm water pollution prevention plan requirements. In addition to the requirements in Part III, the SWPPP shall include, at a minimum, the following items.

#### 1. Site description.

- a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface precipitation or surface~~ runoff: active and closed landfill cells or trenches; active and closed land application areas; locations where open dumping is occurring or has occurred; locations of any known leachate springs or other areas where uncontrolled leachate may commingle with runoff; and leachate collection and handling systems.

b. Summary of potential pollutant sources. The SWPPP shall also include a description of potential pollutant sources associated with any of the following: fertilizer, herbicide, and pesticide application; ~~earth/soil~~ earth and soil moving; waste hauling and ~~loading/unloading~~ loading and unloading; outdoor storage of significant materials including daily, interim and final cover material stockpiles as well as temporary waste storage areas; exposure of active and inactive landfill and land application areas; uncontrolled leachate flows; and failure or leaks from leachate collection and treatment systems.

2. Storm water controls.

a. Preventive maintenance program. As part of the preventive maintenance program, the permittee shall maintain: ~~all containers used for outdoor chemical/significant materials storage to prevent leaking;~~ all elements of leachate collection and treatment systems to prevent commingling of leachate with storm water; and the integrity and effectiveness of any intermediate or final cover (including making repairs to the cover as ~~necessary~~ necessary), to minimize the effects of settlement, sinking, and ~~erosion~~ erosion.

~~b. Good housekeeping measures. As part of the good housekeeping program, the permittee shall consider providing protected storage areas for pesticides, herbicides, fertilizer and other significant materials.~~

~~e. b.~~ Routine facility inspections.

(1) Inspections of active sites. Operating landfills, open dumps, and land application sites shall be inspected at least once every seven days. Qualified personnel shall inspect areas of landfills that have not yet been finally stabilized, active land application areas, areas used for storage of ~~materials/wastes~~ materials or wastes that are exposed to precipitation, stabilization and structural control measures, leachate collection and treatment systems, and locations where equipment and waste trucks enter and exit the site. Erosion and sediment control measures shall be observed to ensure they are operating correctly. For stabilized sites and areas where land application has been completed, or where the climate is seasonally arid (annual rainfall averages from 0 to 10 inches) or semi-arid (annual rainfall averages from 10 to 20 inches), inspections shall be conducted at least once every month.

(2) Inspections of inactive sites. Inactive landfills, open dumps, and land application sites shall be inspected at least quarterly. Qualified personnel shall inspect landfill (or open dump) stabilization and structural erosion control measures and leachate collection and treatment systems, and all closed land application areas.

~~e. c.~~ Recordkeeping and internal reporting procedures. Landfill and open dump owners shall provide for a tracking system for the types of wastes disposed of in

each cell or trench of a landfill or open dump. Land application site owners shall track the types and quantities of wastes applied in specific areas.

~~e. Certification of~~ d. Annual outfall evaluation for unauthorized discharges. The ~~discharge test and certification~~ evaluation shall also be conducted for the presence of leachate and vehicle washwater.

~~f. e.~~ Sediment and erosion control plan. Landfill and open dump owners shall provide for temporary stabilization of materials stockpiled for daily, intermediate, and final cover. Stabilization practices to consider include, but are not limited to, temporary seeding, mulching, and placing geotextiles on the inactive portions of the stockpiles. Landfill and open dump owners shall provide for temporary stabilization of inactive areas of the landfill or open dump which have an intermediate cover but no final cover. Landfill and open dump owners shall provide for temporary stabilization of any landfill or open dumping areas which have received a final cover until vegetation has established itself. Land application site owners shall also stabilize areas where waste application has been completed until vegetation has been established.

~~g. f.~~ Comprehensive site compliance evaluation. Areas contributing to a storm water discharge associated with industrial activities at landfills, open dumps and land application sites shall be evaluated for evidence of, or the potential for, pollutants entering the drainage system.

E. Numeric effluent limitations. As set forth at 40 CFR Part 445 Subpart B (~~2007~~), the numeric limitations in Table 190-1 apply to contaminated storm water discharges from municipal solid waste landfills (MSWLFs) that have not been closed in accordance with 40 CFR 258.60 (~~2006~~), and contaminated storm water discharges from those landfills that are subject to the provisions of 40 CFR Part 257 (~~2006~~) (these include CDD landfills (also known as C&D landfills), and industrial landfills) except for discharges from any of the following facilities ~~described in subdivisions 1 through 4 of this subsection:~~

1. Landfills operated in conjunction with other industrial or commercial operations when the landfill only receives wastes generated by the industrial or commercial operation directly associated with the landfill;

2. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes generated by the industrial or commercial operation directly associated with the landfill and also receives other wastes provided the other wastes received for disposal are generated by a facility that is subject to the same provisions in 40 CFR Subchapter N (~~2007~~) as the industrial or commercial operation or the other wastes received are of similar nature to the wastes generated by the industrial or commercial operation;

3. Landfills operated in conjunction with centralized waste treatment (CWT) facilities subject to 40 CFR Part 437

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(2007) so long as the CWT facility commingles the landfill wastewater with other nonlandfill wastewater for discharge. A landfill directly associated with a CWT facility is subject to this part if the CWT facility discharges landfill wastewater separately from other CWT wastewater or commingles the wastewater from its landfill only with wastewater from other landfills; or

4. Landfills operated in conjunction with other industrial or commercial operations when the landfill receives wastes from public service activities so long as the company owning the landfill does not receive a fee or other remuneration for the disposal service.

Parameter	Effluent Limitations	
	Maximum Daily	Maximum Monthly Average
Landfills (Industrial Activity Code "LF") that are Subject to the Requirements of 40 CFR Part 445 Subpart B (2007).		
Biochemical Oxygen Demand (BOD <sub>5</sub> )	140 mg/L	37 mg/L
Total Suspended Solids (TSS)	88 mg/L	27 mg/L
Ammonia	10 mg/L	4.9 mg/L
Alpha Terpineol	0.033 mg/L	0.016 mg/L
Benzoic Acid	0.12 mg/L	0.071 mg/L
p-Cresol	0.025 mg/L	0.014 mg/L
Phenol	0.026 mg/L	0.015 mg/L
Zinc (Total)	0.20 mg/L	0.11 mg/L
pH	Within the range of 6.0 - 9.0 s.u.	

F. Benchmark monitoring and reporting requirements. ~~Landfill/land application/open~~ Landfill, land application, and open dump sites are required to monitor their storm water discharges for the pollutants of concern listed in Table 190-2. These benchmark monitoring cutoff concentrations apply to storm water discharges associated with industrial activity other than contaminated storm water discharges from landfills subject to the numeric effluent limitations set forth in Table 190-1.

Table 190-2-  
Sector L – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Landfills, Land Application Sites and Open Dumps (Industrial Activity Code "LF").	
Total Suspended Solids (TSS)	100 mg/L
<del>Landfills, Land Application Sites and Open Dumps (Industrial Activity Code "LF"), except MSWLF Areas Closed in Accordance with the Requirements of the Solid Waste Management Regulations, 9VAC20-81</del>	
Total Recoverable Iron	1.0 mg/L

## 9VAC25-151-200. Sector M - Automobile salvage yards.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities engaged in dismantling or wrecking used motor vehicles for parts ~~recycling/resale~~ recycling or resale, and for scrap (SIC Code 5015).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

### 1. Site description.

a. Site map. The map shall include the location of each monitoring point, and an estimation (in acres) of the total area used for industrial activity including, but not limited to, dismantling, storage, and maintenance of used motor vehicle parts. The site map shall also identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: vehicle storage areas; dismantling areas; parts storage areas (e.g., engine blocks, tires, hub caps, batteries, hoods, mufflers); and liquid storage tanks and drums for fuel and other fluids.

b. Summary of potential pollutant sources. The permittee shall assess the potential for the following activities to contribute pollutants to storm water discharges: vehicle storage areas; dismantling areas; parts storage areas (e.g., engine blocks, tires, hub caps, batteries, and hoods); fueling stations.

### 2. Storm water controls.

a. Spill and leak prevention procedures. All vehicles that are intended to be dismantled shall be properly drained of all fluids prior to being dismantled or crushed, or other equivalent means shall be taken to prevent leaks or spills of fluids.

b. Inspections. Upon arrival at the site, or as soon thereafter as feasible, vehicles shall be inspected for leaks. Any equipment containing oily parts, hydraulic fluids, any other types of fluids, or mercury switches shall be inspected at least quarterly (four times per year)

for signs of leaks. All vessels and areas where hazardous materials and general automotive fluids are stored, including, but not limited to, mercury switches, brake fluid, transmission fluid, radiator water, and antifreeze, shall be inspected at least quarterly for leaks.

c. Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: proper handling (collection, storage, and disposal) of oil, used mineral spirits, anti-freeze, mercury switches, and solvents.

d. Management of runoff. The plan shall consider management practices, such as berms or drainage ditches on the property line, to help prevent runoff from neighboring properties. Berms shall be considered for uncovered outdoor storage of oily parts, engine blocks, and aboveground liquid storage. The permittee shall consider the installation of detention ponds, filtering devices, and oil/water separators.

C. Benchmark monitoring and reporting requirements. Automobile salvage yards are required to monitor their storm water discharges for the pollutants of concern listed in Table 200.

Table 200-  
Sector M – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Automobile Salvage Yards (SIC 5015)	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L

**9VAC25-151-210. Sector N - Scrap recycling and waste recycling facilities and material recovery facilities (MRF).**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities that are engaged in the processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals, paper, plastic, cardboard, glass, animal hides (these types of activities are typically identified as SIC Code 5093), and facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents (also identified as SIC Code 5093). Separate permit requirements have been established for recycling facilities that only receive source-separated recyclable materials primarily from nonindustrial and residential sources (also identified as SIC Code 5093) (e.g., common consumer products including paper, newspaper, glass, cardboard, plastic containers, aluminum and tin cans).

~~This includes recycling facilities commonly referred to as material recovery facilities (MRF).~~

Separate permit requirements have also been established for facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking—ships for scrap (SIC 4499, limited to those listed; for others in SIC 4499 not listed above, see Sector Q (9VAC25-151-240)).

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, nonstorm water discharges from turnings containment areas are not covered by this permit (see also subdivision C 2 c of this section). Discharges from containment areas in the absence of a storm event are prohibited unless covered by a separate VPDES permit.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, all facilities are required to comply with the general SWPPP requirement in subdivision 1 of this subsection.

Subdivisions 2 through 5 of this subsection have SWPPP requirements for specific types of recycling facilities. The permittee shall implement and describe in the SWPPP a program to address those items that apply. Included are lists of BMP options that, along with any functional equivalents, shall be considered for implementation. Selection or deselection of a particular BMP or approach is up to the best professional judgment of the permittee, as long as the objective of the requirement is met.

1. Site description. Site map. The site map shall identify the locations where any of the following activities or sources may be exposed to ~~precipitation/surface precipitation or surface~~ runoff: scrap and waste material storage, outdoor scrap and waste processing equipment, and containment areas for turnings exposed to cutting fluids.

2. Scrap recycling and waste recycling facilities (nonsource-separated, nonliquid recyclable materials). The following SWPPP special conditions have been established for facilities that receive, process and do wholesale distribution of nonliquid recyclable wastes (e.g., ferrous and nonferrous metals, plastics, glass, cardboard and paper). These facilities may receive both nonrecyclable and recyclable materials. This section is not intended for those facilities that only accept recyclable materials primarily from nonindustrial and residential sources.

a. Inbound recyclable and waste material control program. The plan shall include a recyclable and waste material inspection program to minimize the likelihood of receiving materials that may be significant pollutant sources to storm water discharges. BMP options:

(1) Provide ~~information/education~~ information and education flyers, brochures and pamphlets to suppliers of scrap and recyclable waste materials on draining and properly disposing of residual fluids prior to delivery to

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the facility (e.g., from vehicles and equipment engines, radiators, and transmissions, oil-filled transformers, and individual containers or drums), and on removal of mercury switches prior to delivery to the facility;

(2) Establish procedures to minimize the potential of any residual fluids from coming in contact with ~~precipitation/runoff~~ precipitation or runoff;

(3) Establish procedures for accepting scrap lead-acid batteries. Additional requirements for the handling, storage and disposal or recycling of batteries are contained in the scrap lead-acid battery program provisions in subdivision 2 f of this subsection;

(4) Provide training targeted for those personnel engaged in the inspection and acceptance of inbound recyclable materials;

(5) Establish procedures to ensure that liquid wastes, including used oil, are stored in materially compatible and nonleaking containers and disposed or recycled in accordance with all requirements under the Resource Recovery and Conservation Act (RCRA), and other state or local requirements.

b. Scrap and waste material ~~stockpiles/storage~~ stockpiles and storage (outdoor). The plan shall describe measures and controls to minimize contact of storm water runoff with stockpiled materials, processed materials and nonrecyclable wastes. BMP options:

(1) Permanent or semipermanent covers;

(2) The use of sediment traps, vegetated swales and strips, catch basin filters and sand filters to facilitate settling or filtering of pollutants;

(3) Diversion of runoff away from storage areas via dikes, berms, containment trenches, culverts and surface grading;

(4) Silt fencing;

(5) Oil/water separators, sumps and dry adsorbents for areas where potential sources of residual fluids are stockpiled (e.g., automotive engine storage areas).

c. Stockpiling of turnings exposed to cutting fluids (outdoor storage). The plan shall implement measures necessary to minimize contact of surface runoff with residual cutting fluids. BMP options (use singularly or in combination):

(1) Storage of all turnings exposed to cutting fluids under some form of permanent or semipermanent cover. Storm water discharges from these areas are permitted provided the runoff is first treated by an oil/water separator or its equivalent. Procedures to collect, handle, and dispose or recycle residual fluids that may be present shall be identified in the plan;

(2) Establish dedicated containment areas for all turnings that have been exposed to cutting fluids. Storm water runoff from these areas can be discharged provided:

(a) The containment areas are constructed of either concrete, asphalt or other equivalent type of impermeable material;

(b) There is a barrier around the perimeter of the containment areas to prevent contact with storm water runoff (e.g., berms, curbing, elevated pads, etc.);

(c) There is a drainage collection system for runoff generated from containment areas;

(d) There is a schedule to maintain the oil/water separator (or its equivalent); and

(e) Procedures are identified for the proper disposal or recycling of collected residual fluids.

d. Scrap and waste material ~~stockpiles/storage~~ stockpiles and storage (covered or indoor storage). The plan shall address measures and controls to minimize contact of residual liquids and particulate matter from materials stored indoors or under cover from coming in contact with surface runoff. BMP options:

(1) Good housekeeping measures, including the use of dry absorbent or wet vacuum ~~clean-up~~ cleanup methods, to contain or ~~dispose/recycle~~ dispose, or recycle residual liquids originating from recyclable containers, or mercury spill kits from storage of mercury switches;

(2) Prohibiting the practice of allowing washwater from tipping floors or other processing areas from discharging to the storm sewer system;

(3) Disconnecting or sealing off all floor drains connected to the storm sewer system.

e. Scrap and recyclable waste processing areas. The plan shall include measures and controls to minimize surface runoff from coming in contact with scrap processing equipment. In the case of processing equipment that generate visible amounts of particulate residue (e.g., shredding facilities), the plan shall describe measures to minimize the contact of residual fluids and accumulated particulate matter with runoff (i.e., through good housekeeping, preventive maintenance, etc.). BMP options:

(1) A schedule of regular inspections of equipment for leaks, spills, malfunctioning, worn or corroded parts or equipment;

(2) A preventive maintenance program for processing equipment;

(3) Removal of mercury switches from the hood and trunk lighting units, and removal of anti-lock brake system units containing mercury switches;

(4) Use of dry-absorbents or other cleanup practices to collect and to ~~dispose/recycle spilled/leaking~~ dispose of or recycle spilled or leaking fluids, or use of mercury spill kits for spills from storage of mercury switches;

(5) Installation of low-level alarms or other equivalent protection devices on unattended hydraulic reservoirs

over 150 gallons in capacity. Alternatively, provide secondary containment with sufficient volume to contain the entire volume of the reservoir.

- (6) Containment or diversion structures such as dikes, berms, culverts, trenches, elevated concrete pads, and grading to minimize contact of storm water runoff with outdoor processing equipment or stored materials;
- (7) Oil/water separators or sumps;
- (8) Permanent or semipermanent covers in processing areas where there are residual fluids and grease;
- (9) Retention and detention basins or ponds, sediment traps, vegetated swales or strips, to facilitate pollutant ~~settling/ filtration~~ settling and filtration;
- (10) Catch basin filters or sand filters.

f. Scrap lead-acid battery program. The plan shall address measures and controls for the proper handling, storage and disposal of scrap lead-acid batteries. BMP options:

- (1) Segregate scrap lead-acid batteries from other scrap materials;
- (2) A description of procedures ~~and/or~~ and measures for the proper handling, storage and disposal of cracked or broken batteries;
- (3) A description of measures to collect and dispose of leaking lead-acid battery fluid;
- (4) A description of measures to minimize and, whenever possible, eliminate exposure of scrap lead-acid batteries to precipitation or runoff;
- (5) A description of employee training for the management of scrap batteries.

g. Spill prevention and response procedures. The SWPPP shall include measures to minimize storm water contamination at ~~loading/unloading~~ loading and unloading areas, and from equipment or container failures. BMP options:

- (1) Description of spill prevention and response measures to address areas that are potential sources of fluid leaks or spills;
- (2) Immediate containment and clean up of ~~spills/leaks~~ spills and leaks. If malfunctioning equipment is responsible for the ~~spill/leak~~ spill or leak, repairs shall also be conducted as soon as possible;
- (3) Cleanup procedures shall be identified in the plan, including the use of dry absorbents. Where dry absorbent cleanup methods are used, an adequate supply of dry absorbent material shall be maintained on-site. Used absorbent material shall be disposed of properly;
- (4) Drums containing liquids, especially oil and lubricants, shall be stored: indoors; in a bermed area; in overpack containers or spill pallets; or in similar containment devices;

(5) Overfill prevention devices shall be installed on all fuel pumps or tanks;

(6) Drip pans or equivalent measures shall be placed under any leaking piece of stationary equipment until the leak is repaired. The drip pans shall be inspected for leaks and potential overflow and all liquids properly disposed of in accordance with RCRA requirements;

(7) An alarm ~~and/or~~ or pump shut off system shall be installed on outdoor equipment with hydraulic reservoirs exceeding 150 gallons in order to prevent draining the tank contents in the event of a line break. Alternatively, the equipment may have a secondary containment system capable of containing the contents of the hydraulic reservoir plus adequate freeboard for precipitation. A mercury spill kit shall be used for any release of mercury from switches, anti-lock brake systems, and switch storage areas.

h. Inspection program. All designated areas of the facility and equipment identified in the plan shall be inspected at least ~~monthly~~ quarterly. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

i. Supplier notification program. The plan shall include a program to notify major suppliers which scrap materials will not be accepted at the facility or are only accepted under certain conditions.

3. Waste recycling facilities (liquid recyclable materials).

a. Waste material storage (indoor). The plan shall include measures and controls to ~~minimize/eliminate~~ minimize or eliminate contact between residual liquids from waste materials stored indoors and surface runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112 (~~2007~~). BMP options:

- (1) Procedures for material handling (including labeling and marking);
- (2) A sufficient supply of dry-absorbent materials or a wet vacuum system to collect spilled or leaked materials (note: spilled or leaking mercury should never be vacuumed);
- (3) An appropriate containment structure, such as trenches, curbing, gutters or other equivalent measures;
- (4) A drainage system, including appurtenances (e.g., pumps or ejectors, or manually operated valves), to handle discharges from diked or bermed areas. Drainage shall be discharged to an appropriate treatment facility, sanitary sewer system, or otherwise disposed of properly. Discharges from these areas may require coverage under a separate VPDES permit or industrial user permit under the pretreatment program.

b. Waste material storage (outdoor). The plan shall describe measures and controls to minimize contact between stored residual liquids and precipitation or

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runoff. The plan may refer to applicable portions of other existing plans such as SPCC plans required under 40 CFR Part 112 (2007). Discharges of precipitation from containment areas containing used oil shall also be in accordance with applicable sections of 40 CFR Part 112 (2007). BMP options:

(1) Appropriate containment structures (e.g., dikes, berms, curbing, pits) to store the volume of the largest single tank, with sufficient extra capacity for precipitation;

(2) Drainage control and other diversionary structures;

(3) For storage tanks, provide corrosion protection ~~and/or~~ or leak detection systems;

(4) Dry-absorbent materials or a wet vacuum system to collect spills.

c. Truck and rail car waste transfer areas. The plan shall describe measures and controls to minimize pollutants in discharges from truck and rail car ~~loading/unloading~~ loading and unloading areas. The plan shall also address measures to clean up minor ~~spills/leaks~~ spills and leaks resulting from the transfer of liquid wastes. BMP options:

(1) Containment and diversionary structures to minimize contact with precipitation or runoff;

(2) Use of dry cleanup methods, wet vacuuming, roof coverings, or runoff controls.

d. Inspections. Inspections shall be made ~~monthly~~ quarterly and shall also include all areas where waste is generated, received, stored, treated or disposed that are exposed to either precipitation or storm water runoff. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

4. Recycling facilities (source separated materials). The following SWPPP special conditions have been established for facilities that receive only source-separated recyclable materials primarily from nonindustrial and residential sources.

a. Inbound recyclable material control. The plan shall include an inbound materials inspection program to minimize the likelihood of receiving nonrecyclable materials (e.g., hazardous materials) that may be a significant source of pollutants in surface runoff. BMP options:

(1) Provide information and education measures to inform suppliers of recyclable materials on the types of materials that are acceptable and those that are not acceptable;

(2) A description of training measures for drivers responsible for pickup of recyclable materials;

(3) Clearly mark public drop-off containers regarding which materials can be accepted;

(4) Rejecting nonrecyclable wastes or household hazardous wastes at the source;

(5) Establish procedures for the handling and disposal of nonrecyclable materials.

b. Outdoor storage. The plan shall include procedures to minimize the exposure of recyclable materials to surface runoff and precipitation. The plan shall include good housekeeping measures to prevent the accumulation of particulate matter and fluids, particularly in high traffic areas. BMP options:

(1) Provide totally-enclosed drop-off containers for the public;

(2) Install a ~~sump/pump~~ sump and pump with each containment pit, and treat or discharge collected fluids to a sanitary sewer system;

(3) Provide dikes and curbs for secondary containment (e.g., around bales of recyclable waste paper);

(4) Divert surface runoff away from outside material storage areas;

(5) Provide covers over containment bins, dumpsters, roll-off boxes;

(6) Store the equivalent one day's volume of recyclable materials indoors.

c. Indoor storage and material processing. The plan shall include measures to minimize the release of pollutants from indoor storage and processing areas. BMP options:

(1) Schedule routine good housekeeping measures for all storage and processing areas;

(2) Prohibit a practice of allowing tipping floor washwaters from draining to any portion of the storm sewer system; and

(3) Provide employee training on pollution prevention practices.

d. Vehicle and equipment maintenance. The plan shall also provide for BMPs in those areas where vehicle and equipment maintenance is occurring outdoors. BMP options:

(1) Prohibit vehicle and equipment washwater from discharging to the storm sewer system;

(2) Minimize or eliminate outdoor maintenance areas, wherever possible;

(3) Establish spill prevention and clean-up procedures in fueling areas;

(4) Avoid topping off fuel tanks;

(5) Divert runoff from fueling areas;

(6) Store lubricants and hydraulic fluids indoors;

(7) Provide employee training on proper, handling, storage of hydraulic fluids and lubricants.

5. Facilities engaged in dismantling ships, marine salvaging, and marine wrecking—ships for scrap. The

following SWPPP special conditions have been established for facilities that are engaged in dismantling ships, marine salvaging, and marine wrecking—ships for scrap.

Vessel ~~Breaking/Scrapping~~ Activities breaking and scrapping activities. Scrapping of vessels shall be accomplished ashore beyond the range of mean high tide, whenever practicable. If this activity must be conducted while a vessel is afloat or grounded in state waters, then the permittee shall employ BMPs to reduce the amount of pollutants released. The following BMPs shall be implemented during those periods when vessels (ships, barges, yachts, etc.) are brought to the facility's site for recycling, scrapping and storage prior to scrapping.

a. Fixed or floating platforms sufficiently sized and constructed to catch and prevent scrap materials and pollutants from entering state surface waters (or equivalent measures approved by the ~~department~~ board) shall be used as work surfaces when working on or near the water surface. These platforms shall be cleaned as required to prevent pollutants from entering state surface waters and at the end of each work shift. All scrap metals and pollutants shall be collected in a manner to prevent releases (containerization is recommended).

b. There shall be no discharge of oil or oily wastewater at the facility. Drip pans and other protective devices shall be required for all oil and oily waste transfer operations to catch incidental spillage and drips from hose nozzles, hose racks, drums or barrels. Drip pans and other protective devices shall be inspected and maintained to prevent releases. Oil and oily waste shall be disposed at a permitted facility and adequate documentation of off-site disposition shall be retained for review by the board upon request.

c. During the ~~storage/breaking/scrapping~~ storage, breaking, and scrapping period, oil containment boom(s) shall be deployed either around the vessel being scrapped, or across the mouth of the facility's wet slip, to contain pollutants in the event of a spill. Booms shall be inspected, maintained, and repaired as needed. Oil, grease and fuel spills shall be prevented from reaching state surface waters. Cleanup shall be carried out promptly after an oil, grease, ~~and/or~~ or fuel spill is detected.

d. Paint and solvent spills shall be immediately cleaned up to prevent pollutants from reaching storm drains, deck drains, and state surface waters.

e. Contaminated bilge and ballast water shall not be discharged to state surface waters. If it becomes necessary to dispose of contaminated bilge and ballast waters during a vessel breaking activity, the wastewater shall be disposed at a permitted facility and adequate documentation of off-site disposition shall be retained for review by the board upon request.

D. Benchmark monitoring and reporting requirements. Scrap recycling and waste recycling facilities (~~nonsource-separated facilities only~~) (both source-separated and nonsource-separated facilities), and facilities engaged in dismantling ships, marine salvaging, and marine wrecking—ships for scrap are required to monitor their storm water discharges for the pollutants of concern listed in Table 210.

Table 210-  
Sector N – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
<b>Scrap Recycling and Waste Recycling Facilities (nonsource-separated facilities only) (SIC 5093)</b>	
Total Suspended Solids (TSS)	100 mg/L
Total Recoverable Aluminum	750 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Chromium	16 µg/L
Total Recoverable Copper	18 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Zinc	120 µg/L
<b><u>Scrap Recycling and Waste Recycling Facilities (source-separated facilities) (SIC 5093)</u></b>	
<u>Total Suspended Solids (TSS)</u>	<u>100 mg/L</u>
<u>Total Recoverable Aluminum<sup>1</sup></u>	<u>750 µg/L</u>
<u>Total Recoverable Cadmium<sup>1</sup></u>	<u>2.1 µg/L</u>
<u>Total Recoverable Chromium<sup>1</sup></u>	<u>16 µg/L</u>
<u>Total Recoverable Copper<sup>1</sup></u>	<u>18 µg/L</u>
<u>Total Recoverable Iron<sup>1</sup></u>	<u>1.0 mg/L</u>
<u>Total Recoverable Lead<sup>1</sup></u>	<u>120 µg/L</u>
<u>Total Recoverable Zinc<sup>1</sup></u>	<u>120 µg/L</u>
<sup>1</sup> <u>Metals monitoring is only required at source-separated facilities if metals are received at the facility.</u>	
<b>Facilities Engaged in Dismantling Ships, Marine Salvaging, and Marine Wrecking - Ships <del>For</del> <u>for</u> Scrap (SIC 4499, limited to list)</b>	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Cadmium	2.1 µg/L
Total Recoverable Chromium	16 µg/L
Total Recoverable Copper	18 µg/L

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Total Recoverable Iron	1.0 mg/L
Total Recoverable Lead	120 µg/L
Total Recoverable Zinc	120 µg/L
Total Suspended Solids (TSS)	100 mg/L

## 9VAC25-151-220. Sector O - Steam electric generating facilities.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from steam electric power generating facilities using coal, natural gas, oil, nuclear energy, etc. to produce a steam source, including coal handling areas (Industrial Activity Code "SE").

Storm water discharges from coal pile runoff subject to numeric effluent limitations are eligible for coverage under this permit, but are subject to the limitations established by Part I A 1 c (2).

Storm water discharges from ancillary facilities (e.g., fleet centers, gas turbine stations, and substations) that are not contiguous to a steam electric power generating facility are not covered by this permit. ~~Heat capture/heat recovery~~ heat capture and heat recovery combined cycle generation facilities are also not covered by this permit; however, dual fuel co-generation facilities that generate electric power are included.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, nonstorm water discharges subject to effluent limitation guidelines are also not covered by this permit.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the plan shall include, at a minimum, the following items.

1. Site description. Site map. The site map shall identify the locations of any of the following activities or sources that may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: storage tanks, scrap yards, general refuse areas; short and long term storage of general materials (including, but not limited to: supplies, construction materials, paint equipment, oils, fuels, used and unused solvents, cleaning materials, paint, water treatment chemicals, fertilizer, and pesticides); landfills; construction sites; and stock pile areas (such as coal or limestone piles).

2. Storm water controls.

a. Good housekeeping measures.

(1) Fugitive dust emissions. The permittee shall describe and implement measures that prevent or minimize fugitive dust emissions from coal and ash handling areas. The permittee shall consider establishing procedures to minimize off-site tracking of coal dust and ash such as installing specially designed tires, or washing vehicles in

a designated area before they leave the site, and controlling the wash water.

(2) Delivery vehicles. The plan shall describe measures that prevent or minimize contamination of storm water runoff from delivery vehicles arriving on the plant site. At a minimum the permittee shall consider the following:

(a) Develop procedures for the inspection of delivery vehicles arriving on the plant site, and ensure overall integrity of the body or container; and

(b) Develop procedures to deal with ~~leakage/spillage~~ leakage and spillage from vehicles or containers.

(3) Fuel oil unloading areas. The plan shall describe measures that prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from fuel oil unloading areas. At a minimum the permittee shall consider using the following measures, or an equivalent:

(a) Use of containment curbs in unloading areas;

(b) During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any ~~leaks/spills~~ leaks and spills are immediately contained and cleaned up; and

(c) Use of spill and overflow protection (e.g., drip pans, drip diapers, ~~and/or~~ or other containment devices placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors).

(4) Chemical ~~loading/unloading~~ loading and unloading areas. The permittee shall describe and implement measures that prevent or minimize the contamination of ~~precipitation/surface~~ precipitation or surface runoff from chemical ~~loading/unloading~~ loading and unloading areas. At a minimum the permittee shall consider using the following measures (or their equivalents):

(a) Use of containment curbs at chemical ~~loading/unloading~~ loading and unloading areas to contain spills;

(b) During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any ~~leaks/spills~~ leaks or spills are immediately contained and cleaned up; and

(c) Covering chemical ~~loading/unloading~~ loading and unloading areas, and storing chemicals indoors.

(5) Miscellaneous ~~loading/unloading~~ loading and unloading areas. The permittee shall describe and implement measures that prevent or minimize the contamination of storm water runoff from loading and unloading areas. The permittee shall consider the following, at a minimum (or their equivalents):

(a) covering the loading area;

(b) grading, berming, or curbing around the loading area to divert runoff; or

(c) locating the ~~loading/unloading~~ loading and unloading equipment and vehicles so that leaks are contained in existing containment and flow diversion systems.

(6) Liquid storage tanks. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from aboveground liquid storage tanks. At a minimum the permittee shall consider employing the following measures (or their equivalents):

- (a) Use of protective guards around tanks;
- (b) Use of containment curbs;
- (c) Use of spill and overflow protection; and
- (d) Use of dry cleanup methods.

(7) Large bulk fuel storage tanks. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from large bulk fuel storage tanks. At a minimum the permittee shall consider employing containment berms (or its equivalent). The permittee shall also comply with applicable state and federal laws, including Spill Prevention Control and Countermeasures (SPCC).

(8) Spill reduction measures. The permittee shall describe and implement measures to reduce the potential for an ~~oil/chemical~~ oil or chemical spill, or reference the appropriate section of their SPCC plan. At a minimum the structural integrity of all aboveground tanks, pipelines, pumps and other related equipment shall be visually inspected ~~on a weekly basis~~ regularly. All repairs deemed necessary based on the findings of the inspections shall be completed immediately to reduce the incidence of spills and leaks occurring from such faulty equipment.

(9) Oil bearing equipment in switchyards. The permittee shall describe and implement measures to prevent or minimize contamination of surface runoff from oil bearing equipment in switchyard areas. The permittee shall consider the use of level grades and gravel surfaces to retard flows and limit the spread of spills, and the collection of storm water runoff in perimeter ditches.

(10) Residue hauling vehicles. All residue hauling vehicles shall be inspected for proper covering over the load, adequate gate sealing and overall integrity of the container body. Vehicles without load coverings or adequate gate sealing, or with leaking containers or beds shall be repaired as soon as practicable.

(11) Ash loading areas. The permittee shall describe and implement procedures to reduce or control the tracking of ~~ash/residue~~ ash and residue from ash loading areas ~~where~~. Where practicable, clear the ash building floor and immediately adjacent roadways of spillage, debris and excess water before departure of each loaded vehicle.

(12) Areas adjacent to disposal ponds or landfills. The permittee shall describe and implement measures that

prevent or minimize contamination of storm water runoff from areas adjacent to disposal ponds or landfills. The permittee shall develop procedures to:

- (a) Reduce ash residue which may be tracked on to access roads traveled by residue trucks or residue handling vehicles; and
- (b) Reduce ash residue on exit roads leading into and out of residue handling areas.

(13) Landfills, scrapyards, surface impoundments, open dumps, general refuse sites. The plan shall address and include appropriate BMPs ~~for~~ to minimize the potential for contamination of runoff from landfills, scrapyards, surface impoundments, open dumps and general refuse sites.

~~(14) Vehicle maintenance activities. For vehicle maintenance activities performed on the plant site, the permittee shall use the applicable BMPs outlined in Sector P (9VAC25-151-230).~~

~~(15) Material storage areas. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from material storage areas (including areas used for temporary storage of miscellaneous products, and construction materials stored in lay-down areas). The permittee shall consider the use of the following measures (or their equivalents): flat yard grades; runoff collection in graded swales or ditches; erosion protection measures at steep outfall sites (e.g., concrete chutes, riprap, stilling basins); covering lay-down areas; storing materials indoors; and covering materials temporarily with polyethylene, polyurethane, polypropylene, or hypalon. Storm water runoff may be minimized by constructing an enclosure or building a berm around the area.~~

b. Comprehensive site compliance evaluation. As part of the evaluation, qualified facility personnel shall inspect the following areas on a monthly basis: coal handling areas, ~~loading/unloading~~ loading and unloading areas, switchyards, fueling areas, bulk storage areas, ash handling areas, areas adjacent to disposal ponds and landfills, maintenance areas, liquid storage tanks, and long term and short term material storage areas.

D. Numeric effluent limitations. Permittees with point sources of coal pile runoff associated with steam electric power generation shall monitor these storm water discharges for the presence of TSS and for pH at least annually (one time per year) in accordance with ~~PART~~ Part I A 1 c (2).

E. Benchmark monitoring and reporting requirements. Steam electric power generating facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 220.

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Table 220-  
Sector O – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Steam Electric Generating Facilities (Industrial Activity Code "SE")	
Total Recoverable Iron	1.0 mg/L

## 9VAC25-151-230. Sector P - Land transportation and warehousing.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from ground transportation facilities and rail transportation facilities (generally identified by SIC Codes 40, 41, 42, 43, and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) ~~and/or~~ or equipment cleaning operations. Also covered under this section are facilities found under SIC Codes 4221 through 4225 (public warehousing and storage) that do not have vehicle and equipment maintenance shops ~~and/or~~ or equipment cleaning operations.

B. Special conditions. Prohibition of nonstorm water discharges. This permit does not authorize the discharge of ~~vehicle/equipment/surface~~ vehicle, equipment, or surface washwater, including tank-cleaning operations. Such discharges must be authorized under a separate VPDES permit, discharged to a sanitary sewer in accordance with applicable industrial pretreatment requirements, or recycled on-site.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description. Site ~~Map~~ map. The site map shall identify the locations of any of the following activities and indicate whether the activities may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: fueling stations; ~~vehicle/equipment~~ vehicle and equipment maintenance or cleaning areas; storage areas for ~~vehicle/equipment~~ vehicle and equipment with actual or potential fluid leaks; ~~loading/unloading~~ loading and unloading areas; areas where treatment, storage or disposal of wastes occur; liquid storage tanks; processing areas; and storage areas.

2. Summary of potential pollutant sources. The plan shall describe and assess the potential for the following to contribute pollutants to storm water discharges: on-site waste storage or disposal; ~~dirt/gravel~~ dirt or gravel parking areas for vehicles awaiting maintenance; plumbing connections between shop floor drains and the stormwater conveyance system; and fueling areas.

3. Storm water controls.  
a. Good housekeeping.

(1) Vehicle and equipment storage areas. The storage of vehicles and equipment awaiting maintenance with actual or potential fluid leaks shall be confined to designated areas (delineated on the site map). The permittee shall consider the following measures (or their equivalents): the use of drip pans under vehicles and equipment; indoor storage of vehicles and equipment; installation of berms or dikes; use of absorbents; roofing or covering storage areas; and cleaning pavement surface to remove oil and grease.

(2) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using ~~spill/overflow~~ spill and overflow protection and cleanup equipment; minimizing storm water ~~runon/runoff~~ runon and runoff to the fueling area; using dry cleanup methods; and treating ~~and/or~~ or recycling collected storm water runoff.

(3) Material storage areas. Storage vessels of all materials (e.g., for used ~~oil/oil~~ oil or oil filters, spent solvents, paint wastes, hydraulic fluids) shall be maintained in good condition, so as to prevent contamination of storm water, and plainly labeled (e.g., "used oil," "spent solvents," etc.). The permittee shall consider the following measures (or their equivalents): indoor storage of the materials; installation of ~~berms/dikes~~ berms and dikes around the areas, minimizing runoff of storm water to the areas; using dry cleanup methods; and treating ~~and/or~~ or recycling the collected storm water runoff.

(4) Vehicle and equipment cleaning areas. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from all areas used for ~~vehicle/equipment~~ vehicle and equipment cleaning. The permittee shall consider the following measures (or their equivalents): performing all cleaning operations indoors; covering the cleaning operation; ensuring that all washwaters drain to a proper collection system (i.e., not the storm water drainage system unless VPDES permitted); and treating ~~and/or~~ or recycling the collected storm water runoff.

(5) Vehicle and equipment maintenance areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from all areas used for ~~vehicle/equipment~~ vehicle and equipment maintenance. The permittee shall consider the following measures (or their equivalents): performing maintenance activities indoors; using drip pans; keeping an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting wet clean up practices where the practices would result in the discharge of pollutants to storm water drainage

systems; using dry cleanup methods; treating ~~and/or~~ or recycling collected storm water runoff; and minimizing ~~runon/runoff~~ runon and runoff of storm water to maintenance areas.

(6) Locomotive sanding (loading sand for traction) areas. The plan shall describe measures that prevent or minimize contamination of the storm water runoff from areas used for locomotive sanding. The permittee shall consider the following measures (or their equivalents): covering sanding areas; minimizing storm water ~~runon/runoff~~ runon and runoff; or appropriate sediment removal practices to minimize the off-site transport of sanding material by storm water.

b. Routine facility inspections. The following ~~areas/activities~~ areas and activities shall be included in all inspections: storage area for ~~vehicles/equipment~~ vehicles and equipment awaiting maintenance; fueling areas; indoor and outdoor ~~vehicle/equipment~~ vehicle and equipment maintenance areas; material storage areas; ~~vehicle/equipment~~ vehicle and equipment cleaning areas; and ~~loading/unloading~~ loading and unloading areas.

c. Employee training. Employee training shall take place, at a minimum, annually (once per calendar year). Employee training shall address the following as applicable: used oil and spent solvent management; fueling procedures; general good housekeeping practices; proper painting procedures; and used battery management.

D. Benchmark monitoring and reporting requirements. Land transportation and warehousing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 230.

Table 230-  
Sector P - Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Land Transportation and Warehousing Facilities (SIC 4011, 4013, 4111-4173, 4212-4231, 4311, and 5171)	
Total Petroleum Hydrocarbons (TPH) *	15.0 mg/L
Total Suspended Solids (TSS)	100 mg/L

~~\*Total Petroleum Hydrocarbons shall be analyzed using the Wisconsin Department of Natural Resources Modified Diesel Range Organics Method as specified in Wisconsin publication SW 141 (1995), or by EPA SW 846 Method 8015C for diesel range organics, or by EPA SW 846 Method 8270D. If Method 8270D is used, the lab must report the combination of diesel range organics and polynuclear aromatic hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW~~

846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.

**9VAC25-151-240. Sector Q - Water transportation.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from water transportation facilities (generally identified by SIC Major Group 44), that have vehicle (vessel) maintenance shops ~~and/or~~ or equipment cleaning operations. The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters; marine cargo handling operations; ferry operations; towing and tugboat services; and marinas.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: bilge and ballast water, sanitary wastes, pressure wash water, and cooling water originating from vessels.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify the locations where any of the following activities may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: fueling; engine ~~maintenance/repair~~ maintenance or repair; vessel ~~maintenance/repair~~ maintenance or repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; ~~loading/unloading~~ loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (e.g., paint, solvents, resins); and material storage areas (e.g., blasting media, aluminum, steel, scrap iron).

b. Summary of potential pollutant sources. The plan shall describe the following additional sources and activities that have potential pollutants associated with them: outdoor manufacturing or processing activities (i.e., welding, metal fabricating); and significant dust or particulate generating processes (e.g., abrasive blasting, sanding, painting).

2. Storm water controls.

a. Good housekeeping.

(1) Pressure washing area. ~~If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted by a separate VPDES permit. The SWPPP shall describe the measures to collect or contain the discharge from the pressure washing area; the method for the removal of the visible solids; the methods of disposal of the collected solids; and where the discharge will be released. As defined by this permit, process wastewater related to hull work at water transportation~~

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facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit.

(2) Blasting and painting areas. The permittee shall describe and implement measures to prevent spent abrasives, paint chips, and overspray from discharging into the receiving water or the storm sewer system. The permittee may consider containing all ~~blasting/painting~~ blasting or painting activities, or the use of other measures to prevent or minimize the discharge of contaminants (e.g., hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris). Storm water conveyances shall be regularly cleaned to remove deposits of abrasive blasting debris and paint chips. The plan shall include any standard operating practices with regard to blasting and painting activities, such as the prohibition of uncontained ~~blasting/painting~~ blasting or painting over open water, or the prohibition of ~~blasting/painting~~ blasting or painting during windy conditions which can render containment ineffective.

(3) Material storage areas. All containerized materials (e.g., fuels, paints, solvents, waste oil, antifreeze, batteries) shall be plainly labeled and stored in a protected, secure location away from drains. The permittee shall describe and implement measures to prevent or minimize the contamination of ~~precipitation/surface~~ precipitation or surface runoff from the storage areas. The plan shall specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. The permittee shall consider implementing an inventory control plan to limit the presence of potentially hazardous materials on-site. Where abrasive blasting is performed, the plan shall specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(4) Engine maintenance and repair areas. The permittee shall describe and implement measures to prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from all areas used for engine maintenance and repair. The permittee shall consider the following measures (or their equivalent): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting the practice of hosing down the shop floor using dry cleanup methods; and treating ~~and/or~~ or recycling storm water runoff collected from the maintenance area.

(5) Material handling areas. The permittee shall describe and implement measures to prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from material handling operations and areas (e.g., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The permittee shall consider the following measures (or their equivalents): covering fueling areas; using ~~spill/overflow~~ spill and overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimizing runoff of storm water to material handling areas.

(6) Drydock activities. The plan shall address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the storm water runoff. The plan shall describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock shall also be included within the plan. The permittee shall consider the following measures (or their equivalents): sweeping rather than hosing off ~~debris/spent~~ debris and spent blasting material from the accessible areas of the drydock prior to flooding; and having absorbent materials and oil containment booms readily available to ~~contain/cleanup~~ contain or cleanup any spills.

(7) General yard area. The plan shall include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass, industrial scrap, insulation, welding rods, packaging, etc., shall be routinely removed from the general yard area.

b. Preventative Maintenance. As part of the facility's preventive maintenance program, storm water management devices shall be inspected and maintained in a timely manner (e.g., oil/water separators and sediment traps cleaned to ensure that spent abrasives, paint chips and solids are intercepted and retained prior to entering the storm drainage system). Facility equipment and systems shall also be inspected and tested to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

c. Routine facility inspections. The following areas shall be included in all ~~monthly~~ quarterly inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine maintenance and repair areas; material handling areas; drydock area; and general yard area. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

d. Employee training. Training shall address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; disposal of

spent abrasives; disposal of vessel wastewaters; spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

~~e. Comprehensive site compliance evaluation. The permittee shall conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (e.g., pressure washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). These sources shall be inspected for evidence of, or the potential for, pollutants entering the drainage system.~~

D. Benchmark monitoring and reporting requirements. Water transportation facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 240.

Table 240-  
Sector Q – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Water Transportation Facilities (SIC 4412-4499)	
<del>Total Recoverable Aluminum</del>	<del>750 µg/L</del>
<del>Total Recoverable Iron</del>	<del>1.0 mg/L</del>
<del>Total Suspended Solids (TSS)</del>	<del>100 mg/L</del>
<del>Total Recoverable Copper</del>	<del>18 µg/L</del>
Total Recoverable Zinc	120 µg/L

**9VAC25-151-250. Sector R - Ship and boat building or repair yards.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities engaged in ship building and repairing and boat building and repairing (SIC Code 373). (According to the U.S. Coast Guard, a vessel 65 feet or greater in length is referred to as a ship and a vessel smaller than 65 feet is a boat.)

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: bilge and ballast water, pressure wash water, sanitary wastes, and cooling water originating from vessels.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify the locations where any of the following activities may be exposed to

~~precipitation/surface precipitation or surface runoff; fueling; engine maintenance/repair maintenance or repair; vessel maintenance/repair maintenance or repair; pressure washing; painting; sanding; blasting; welding; metal fabrication; loading/unloading loading and unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; liquid storage areas (e.g., paint, solvents, resins); and material storage areas (e.g., blasting media, aluminum, steel, scrap iron).~~

b. Potential pollutant sources. The plan shall include a description of the following additional sources and activities that have potential pollutants associated with them (if applicable): outdoor ~~manufacturing/processing manufacturing and processing~~ activities (e.g., welding, metal fabricating); and significant ~~dust/particulate dust and particulate~~ generating processes (e.g., abrasive blasting, sanding, painting).

2. Storm water controls.

a. Good housekeeping measures.

(1) Pressure washing area. ~~If pressure washing is used to remove marine growth from vessels, the discharge water must be permitted as a process wastewater by a separate VPDES permit. As defined by this permit, process wastewater related to hull work at ship and boat building or repair yard facilities shall be any water used on a vessel's hull for any purpose, regardless of application pressure, including but not limited to the activities of removing marine salts, sediments, marine growth and paint, or other hull, weather deck, or superstructure cleaning activities using water, such as preparing those areas for inspection or work (cutting, welding, grinding, coating, etc.). The discharge water shall be permitted as a process wastewater by a separate VPDES permit.~~

(2) Blasting and painting areas. The permittee shall describe and implement measures to prevent spent abrasives, paint chips and overspray from discharging into the receiving waterbody or the storm sewer system. To prevent the discharge of contaminants, the permittee shall consider containing all ~~blasting/painting blasting and painting~~ activities or using other methods, such as hanging plastic barriers or tarpaulins during blasting or painting operations to contain debris. The plan shall include a schedule for regularly cleaning storm systems to remove deposits of abrasive blasting debris and paint chips. The plan shall include any standard operating practices with regard to blasting and painting activities, such as the prohibition of uncontained ~~blasting/painting blasting or painting~~ over open water or the prohibition of ~~blasting/painting blasting or painting~~ during windy conditions that can render containment ineffective.

(3) Material storage areas. All containerized materials (fuels, paints, solvents, waste oil, antifreeze, batteries) shall be plainly labeled and stored in a protected, secure location away from drains. The permittee shall describe

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and implement measures to prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from the storage areas. The plan shall specify which materials are stored indoors and consider containment or enclosure for materials that are stored outdoors. The permittee shall consider implementing an inventory control plan to limit the presence of potentially hazardous materials on-site. Where abrasive blasting is performed, the plan shall specifically include a discussion on the storage and disposal of spent abrasive materials generated at the facility.

(4) Engine maintenance and repair areas. The permittee shall describe and implement measures to prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from all areas used for engine maintenance and repair. The permittee shall consider the following measures (or their equivalent): performing all maintenance activities indoors; maintaining an organized inventory of materials used in the shop; draining all parts of fluids prior to disposal; prohibiting the practice of hosing down the shop floor; using dry cleanup methods; and treating ~~and/or~~ or recycling storm water runoff collected from the maintenance area.

(5) Material handling areas. The permittee shall describe and implement measures to prevent or minimize contamination of ~~precipitation/surface~~ precipitation or surface runoff from material handling operations and areas (e.g., fueling, paint and solvent mixing, disposal of process wastewater streams from vessels). The permittee shall consider the following methods (or their equivalents): covering fueling areas; using ~~spill/overflow~~ spill and overflow protection; mixing paints and solvents in a designated area (preferably indoors or under a shed); and minimizing runoff of storm water to material handling areas.

(6) Drydock activities. The plan shall address the routine maintenance and cleaning of the drydock to minimize the potential for pollutants in the storm water runoff. The plan shall describe the procedures for cleaning the accessible areas of the drydock prior to flooding and final cleanup after the vessel is removed and the dock is raised. Cleanup procedures for oil, grease, or fuel spills occurring on the drydock shall also be included within the plan. The permittee shall consider the following measures (or their equivalents): sweeping rather than hosing off ~~debris/spent debris and spent~~ blasting material from the accessible areas of the drydock prior to flooding and having absorbent materials and oil containment booms readily available to ~~contain/cleanup~~ contain or cleanup any spills.

(7) General yard area. The plan shall include a schedule for routine yard maintenance and cleanup. Scrap metal, wood, plastic, miscellaneous trash, paper, glass,

industrial scrap, insulation, welding rods, packaging, etc., shall be routinely removed from the general yard area.

b. Preventative maintenance. As part of the facility's preventive maintenance program, storm water management devices shall be inspected and maintained in a timely manner (e.g., oil/water separators and sediment traps cleaned to ensure that spent abrasives, paint chips and solids are intercepted and retained prior to entering the storm drainage system). Facility equipment and systems shall also be inspected and tested to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

c. Routine facility inspections. The following areas shall be included in all ~~monthly~~ quarterly routine inspections: pressure washing area; blasting, sanding, and painting areas; material storage areas; engine ~~maintenance/repair~~ maintenance or repair areas; material handling areas; drydock area; and general yard area. The requirement for routine facility inspections is waived for facilities that have maintained an active VEPP E3/E4 status.

d. Employee training. Training shall address, at a minimum, the following activities (as applicable): used oil management; spent solvent management; proper disposal of spent abrasives; proper disposal of vessel wastewaters, spill prevention and control; fueling procedures; general good housekeeping practices; painting and blasting procedures; and used battery management.

~~e. Comprehensive site compliance evaluation. The permittee shall conduct regularly scheduled evaluations at least once a year and address those areas contributing to a storm water discharge associated with industrial activity (e.g., pressure washing area, blasting/sanding areas, painting areas, material storage areas, engine maintenance/repair areas, material handling areas, and drydock area). These areas shall be inspected for evidence of, or the potential for, pollutants entering the drainage system.~~

D. Benchmark monitoring and reporting requirements. Ship and boat building or repairing yards are required to monitor their storm water discharges for the pollutants of concern listed in Table 250.

Table 250-  
Sector R - Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Ship and Boat Building or Repairing Yards (SIC 3731, 3732)	
Total Suspended Solids (TSS)	100 mg/L

<u>Total Recoverable Copper</u>	<u>18 µg/L</u>
<u>Total Recoverable Zinc</u>	<u>120 µg/L</u>

**9VAC25-151-260. Sector S - Air transportation.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from air transportation facilities including airports, airport terminal services, air transportation (scheduled and nonscheduled), flying fields, air courier services, and establishments engaged in operating and maintaining airports, and servicing, repairing or maintaining aircraft (generally classified under SIC Code 45), which have vehicle maintenance shops, material handling facilities, equipment cleaning operations, or airport ~~and/or~~ or aircraft ~~deicing/anti-icing~~ deicing or anti-icing operations. For the purpose of this section, the term "deicing" is defined as the process to remove frost, snow, or ice and "anti-icing" is the process which prevents the accumulation of frost, snow, or ice. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or ~~deicing/anti-icing~~ deicing or anti-icing operations are addressed under this section.

B. Special definitions. The following definitions are only for this section of the general permit:

"Aircraft deicing fluid" or "ADF" means a fluid (other than hot water) applied to aircraft to remove or prevent any accumulation of snow or ice on the aircraft. This includes deicing and anti-icing fluids.

"Airfield pavement" means all paved surfaces on the airside of an airport.

"Airside" means the part of an airport directly involved in the arrival and departure of aircraft, including runways, taxiways, aprons, and ramps.

"Annual non-propeller aircraft departures" means the average number of commercial turbine-engine aircraft that are propelled by jet (i.e., turbojet or turbofan) that take off from an airport on an annual basis, as tabulated by the Federal Aviation Administration (FAA).

"Available ADF" means 75% of the normalized Type I aircraft deicing fluid and 10% of the normalized Type IV aircraft deicing fluid, excluding aircraft deicing fluids used for defrosting or deicing for safe taxiing.

"Collection requirement" means, for new sources, the requirement for permittee to collect available ADF.

"Defrosting" means the removal of frost contamination from an aircraft when there has been no active precipitation.

"Deicing" mean procedures and practices to remove or prevent any accumulation of snow or ice on:

- (1) An aircraft; or
- (2) Airfield pavement.

"Normalized Type I or Type IV aircraft deicing fluid" means ADF less any water added by the manufacturer or customer before ADF application.

"Primary airport" means an airport defined at 49 USC § 47102 (15).

~~C. Special conditions.~~ 4. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: aircraft, ground vehicle, runway and equipment washwaters, and dry weather discharges of ~~deicing/anti-icing~~ deicing or anti-icing chemicals. These discharges must be covered by a separate VPDES permit. Note: Discharge resulting from snowmelt is not a dry weather discharge.

~~2. Releases of reportable quantities of hazardous substances and oil. Each individual permittee is required to report spills as described at Part I B 3. If an airport authority is the sole permittee, then the sum total of all spills at the airport shall be assessed against the reportable quantity. If the airport authority is a copermitttee with other ~~deicing/anti-icing~~ deicing or anti-icing operators at the airport, such as numerous different airlines, the assessed amount shall be the summation of spills by each copermitttee. If separate, distinct individual permittees exist at the airport, then the amount spilled by each separate permittee shall be the assessed amount for the reportable quantity determination.~~

~~C. D. Storm water pollution prevention plan requirements. SWPPPs developed for areas of the facility occupied by tenants of the airport shall be integrated with the plan for the entire airport. For the purposes of this permit, tenants of the airport facility include .airline passenger or cargo companies, fixed based operators and other parties who have contracts with the airport authority to conduct business operations on airport property and whose operations result in storm water discharges associated with industrial activity. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.~~

- 1. Site description.
  - a. Site map. The site map shall identify the location of the following activities and indicate any of the activities that may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: aircraft and runway ~~deicing/anti-icing~~ deicing or anti-icing operations; fueling stations; aircraft, ground vehicle and equipment ~~maintenance/cleaning~~ maintenance and cleaning areas; and storage areas for aircraft, ground vehicles and equipment awaiting maintenance.
  - b. Summary of potential pollutant sources. The plan shall include a narrative description of the potential pollutant sources from the following activities: aircraft, runway, ground vehicle and equipment maintenance and cleaning; aircraft and runway ~~deicing/anti-icing~~ deicing or anti-icing operations (including apron and centralized aircraft ~~deicing/anti-icing~~ deicing or anti-icing stations, runways,

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taxiways, and ramps). Facilities which conduct ~~deicing/anti-icing~~ deicing or anti-icing operations shall maintain a record of the types (including the ~~Material Safety Data Sheets (MSDS)~~ safety data sheets (SDS)) and monthly quantities of ~~deicing/anti-icing~~ deicing or anti-icing chemicals used, either as measured amounts, or in the absence of metering, as estimated amounts. This includes all ~~deicing/anti-icing~~ deicing or anti-icing chemicals, not just glycols and urea (e.g., potassium acetate). Tenants and fixed-base operators who conduct ~~deicing/anti-icing~~ deicing or anti-icing operations shall provide the above information to the airport authority for inclusion in the storm water pollution prevention plan for the entire facility.

c. Deicing season. The SWPPP shall define the average seasonal timeframe (e.g., December-February, October-March, etc.) during which deicing activities typically occur at the facility. Implementation of BMPs, facility inspections, and effluent limitation monitoring shall be conducted with particular emphasis throughout the defined deicing season.

## 2. Storm water controls.

### a. Good housekeeping.

(1) Aircraft, ground vehicle and equipment maintenance areas. The permittee shall describe and implement measures that prevent or minimize the contamination of storm water runoff from all areas used for aircraft, ground vehicle and equipment maintenance (including the maintenance conducted on the terminal apron and in dedicated hangars). The following practices (or their equivalents) shall be considered: performing maintenance activities indoors; maintaining an organized inventory of materials used in the maintenance areas; draining all parts of fluids prior to disposal; preventing the practice of hosing down the apron or hangar floor; using dry cleanup methods; and collecting the storm water runoff from the maintenance area and providing treatment or recycling.

(2) Aircraft, ground vehicle and equipment cleaning areas. Permittees shall ensure that cleaning of equipment is conducted in designated areas only and clearly identify these areas on the ground and delineate them on the site map. The permittee shall describe and implement measures that prevent or minimize the contamination of the storm water runoff from cleaning areas.

(3) Aircraft, ground vehicle and equipment storage areas. The storage of aircraft, ground vehicles and equipment awaiting maintenance shall be confined to designated areas (delineated on the site map). The following BMPs (or their equivalents) shall be considered: indoor storage of aircraft and ground vehicles; the use of drip pans for the collection of fluid leaks; and perimeter drains, dikes or berms surrounding storage areas.

(4) Material storage areas. Storage vessels of all materials (e.g., used oils, hydraulic fluids, spent solvents, and waste aircraft fuel) shall be maintained in good condition, so as to prevent or minimize contamination of storm water, and plainly labeled (e.g., "used oil," "Contaminated Jet A," etc.). The permittee shall describe and implement measures that prevent or minimize contamination of ~~precipitation/runoff~~ precipitation or runoff from storage areas. The following BMPs or their equivalents shall be considered: indoor storage of materials; centralized storage areas for waste materials; and installation of ~~berms/dikes~~ berms and dikes around storage areas.

(5) Airport fuel system and fueling areas. The permittee shall describe and implement measures that prevent or minimize the discharge of fuels to the storm ~~sewer/surface~~ sewer or surface waters resulting from fuel servicing activities or other operations conducted in support of the airport fuel system. The following BMPs (or their equivalents) shall be considered: implementing spill and overflow practices (e.g., placing absorptive materials beneath aircraft during fueling operations); using dry cleanup methods; and collecting the storm water runoff.

b. Source reduction. Owners who conduct ~~deicing/anti-icing~~ deicing or anti-icing operations shall consider alternatives to the use of urea and glycol-based ~~deicing/anti-icing~~ deicing or anti-icing chemicals to reduce the aggregate amount of ~~deicing/anti-icing~~ deicing or anti-icing chemicals used ~~and/or~~ and lessen the environmental impact. Chemical options to replace ethylene glycol, propylene glycol and urea include: potassium acetate; magnesium acetate; calcium acetate; anhydrous sodium acetate.

(1) Runway deicing operations. Owners shall evaluate present application rates to ensure against excessive over application by analyzing application rates and adjusting as necessary, consistent with considerations of flight safety. Also the following BMP options shall be considered (or their equivalents): metered application of chemicals; prewetting dry chemical constituents prior to application; installation of runway ice detection systems; implementing anti-icing operations as a preventive measure against ice buildup.

(2) Aircraft ~~deicing/anti-icing~~ deicing operations. Owners shall determine whether excessive application of ~~deicing/anti-icing~~ deicing chemicals occurs, and adjust as necessary, consistent with considerations of flight safety. This evaluation shall be carried out by the personnel most familiar with the particular aircraft and flight operations in question (versus an outside entity such as the airport authority). The use of alternative ~~deicing/anti-icing~~ deicing or anti-icing agents as well as containment measures for all applied chemicals shall be considered.

Also, the following BMP options (or their equivalents) shall be considered for reducing deicing fluid use: forced-air deicing systems; computer-controlled fixed-gantry systems; infrared technology; hot water; varying glycol content to air temperature; enclosed-basket deicing trucks; mechanical methods; solar radiation; hangar storage; aircraft covers; and thermal blankets for MD-80s and DC-9s. The use of ice-detection systems and airport traffic flow strategies and departure slot allocation systems shall also be considered.

c. Management of runoff. Where ~~deicing/anti-icing~~ deicing operations occur, owners shall describe and implement a program to control or manage contaminated runoff to reduce the amount of pollutants being discharged from the site. The plan shall describe the controls used for collecting or containing contaminated melt water from collection areas used for disposal of contaminated snow. The following BMPs (or their equivalents) shall be considered: establishing a dedicated deicing facility with a runoff ~~collection/recovery~~ collection and recovery system; using ~~vacuum/collection~~ vacuum or collection trucks; storing contaminated storm ~~water/deicing~~ water or deicing fluids in tanks and releasing controlled amounts to a publicly owned treatment works; collecting contaminated runoff in a wet pond for biochemical decomposition (be aware of attracting wildlife that may prove hazardous to flight operations); and directing runoff into vegetative swales or other infiltration measures. The plan shall consider the recovery of ~~deicing/anti-icing~~ deicing and anti-icing materials when these materials are applied during nonprecipitation events (e.g., covering storm sewer inlets, using booms, installing absorptive interceptors in the drains, etc.) to prevent these materials from later becoming a source of storm water contamination. Used deicing fluid shall be recycled whenever possible.

d. Routine facility inspections. The inspection frequency shall be specified in the plan. At a minimum, inspections shall be conducted once per month during ~~deicing/anti-icing~~ deicing and anti-icing season (e.g., October through April for most airports). If deicing occurs before or after this period, the inspections shall be expanded to include all months during which deicing chemicals may be used. ~~Also, if significantly or deleteriously large quantities of deicing chemicals are being spilled or discharged, or if water quality impacts have been reported, the inspection frequency shall be increased to weekly until such time as the chemical spills/discharges or impacts are reduced to acceptable levels. The director may specifically require increased inspections and the SWPPP to be reevaluated as necessary.~~

e. ~~Comprehensive site compliance evaluation. The annual site compliance evaluations shall be conducted by qualified facility personnel during periods of actual deicing operations, if possible. If not practicable during~~

~~active deicing or if the weather is too inclement, the evaluations shall be conducted when deicing operations are likely to occur and the materials and equipment for deicing are in place.~~

~~D. Benchmark monitoring and reporting requirements. Airports that use more than 100,000 gallons of glycol based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis shall sample their storm water discharges for the parameters listed in Table 260. Only those outfalls from the airport facility that collect runoff from areas where deicing/anti-icing activities occur shall be monitored.~~

~~Table 260.  
Sector S – Benchmark Monitoring Requirements.~~

<del>Pollutants of Concern</del>	<del>Benchmark Concentration</del>
<del>Facilities at airports that use more than 100,000 gallons of glycol based deicing/anti-icing chemicals and/or 100 tons or more of urea on an average annual basis: monitor ONLY those outfalls from the airport facility that collect runoff from areas where deicing/anti-icing activities occur (SIC 45).</del>	
<del>Biochemical Oxygen Demand (BOD<sub>5</sub>)</del>	<del>30 mg/L</del>
<del>Chemical Oxygen Demand (COD)</del>	<del>120 mg/L</del>
<del>Total Kjeldahl Nitrogen (TKN)</del>	<del>1.5 mg/L</del>
<del>pH</del>	<del>within the range 6.0 to 9 s.u.</del>
<del>Total Suspended Solids (TSS)</del>	<del>100 mg/L</del>

~~E. Numeric effluent limitations. The average deicing season identified in the SWPPP is the time frame during which any effluent limitation monitoring samples shall be obtained.~~

~~1. Airfield pavement deicing. Existing and new primary airports with at least 1,000 annual jet departures (non-propeller aircraft) that have discharges associated with airport pavement deicing comingled with storm water shall either use airfield deicing products that do not contain urea or alternatively, airfield pavement discharges at every discharge point shall achieve the numeric limitations for ammonia in Table 260-1, prior to any dilution or commingling with any non-deicing discharge.~~

~~Table 260-1  
Sector S – Numeric Effluent Limitations, Existing and New Primary Airports~~

<del>Airfield Pavement Deicing</del>	
<del>Parameter</del>	<del>Effluent Limitations - Daily Maximum</del>
<del>Ammonia as Nitrogen</del>	<del>14.7 mg/L</del>

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2. Aircraft deicing. Airports in cold climate zones meeting the definition of a new source (new airports) with 10,000 annual departures, shall collect at least 60% of available ADF after deicing. New airports shall achieve the performance standards in Table 260-2 for available ADF collected. The limitation shall be met at the location where the effluent leaves the on-site treatment system utilized for meeting these requirements and before commingling with any non-deicing discharge.

Table 260-2

Sector S – Numeric Effluent Limitations, New Primary Airports

Aircraft Deicing		
Parameter	Effluent Limitations	
	Daily Maximum	Weekly Average
Chemical Oxygen Demand (COD)	271 mg/L	154 mg/L

3. Monitoring, reporting, and recordkeeping requirements. New airports subject to the effluent limitations in subdivision 2 of this subsection shall comply with the monitoring, reporting, and recordkeeping requirements outlined in 40 CFR 449.20(a)(1) and 40 CFR 449.20 (a) (2).

F. Benchmark monitoring and reporting requirements. Storm water discharges from those portions of air transportation facilities where vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), and equipment cleaning is performed shall be sampled for the parameters listed in Table 260-3. Note: The benchmark monitoring requirements apply year round and are not limited to the deicing season.

Table 260-3

Sector S – Benchmark Monitoring Requirements

Pollutants of Concern	Benchmark Concentration
Air Transportation Facilities (SIC 45).	
Total Suspended Solids (TSS)	100 mg/L
Total Petroleum Hydrocarbons (TPH)*	15.0 mg/L
*Total Petroleum Hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.	

## 9VAC25-151-270. Sector T - Treatment works.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including lands dedicated to the disposal of sewage sludge that are located within the confines of the facility with a design flow of 1.0 MGD or more, or required to have an approved pretreatment program under 9VAC25-31-730 (Industrial Activity Code "TW"). Farm lands, domestic gardens or lands used for sludge management where sludge is beneficially reused and that are not physically located within the facility, or areas that are in compliance with § 405 of the CWA are not required to have permit coverage.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: sanitary and industrial wastewater; and ~~equipment/vehicle~~ equipment and vehicle washwaters.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

### 1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and storage areas for process chemicals, petroleum products, solvents, fertilizers, herbicides, and pesticides.

b. Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities, as applicable: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station; and access ~~roads/rail~~ roads and rail lines.

### 2. Storm water controls.

a. ~~Best Management Practices (BMPs)~~ Control measures. In addition to the other ~~BMPs~~ control measures considered, the following ~~BMPs~~ measures shall be considered: routing storm water to the treatment works; or covering exposed materials (i.e., from the following areas: grit, screenings, and other solids handling, storage, or disposal areas; sludge drying beds; dried sludge piles; compost piles; septage or hauled waste receiving station).

b. Inspections. The following areas shall be included in all inspections: access ~~roads/rail~~ roads and rail lines, grit, screenings, and other solids handling, storage, or disposal

areas; sludge drying beds; dried sludge piles; compost piles; seepage or hauled waste receiving station areas.

c. Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: petroleum product management; process chemical management; spill prevention and control; fueling procedures; general good housekeeping practices; proper procedures for using fertilizers, herbicides and pesticides.

**9VAC25-151-280. Sector U - Food and kindred products.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from food and kindred products processing facilities (commonly identified by SIC Code 20), including: meat products; dairy products; canned, frozen and preserved fruits, vegetables, and food specialties; grain mill products; bakery products; sugar and confectionery products; fats and oils; beverages; and miscellaneous food preparations and kindred products and tobacco products manufacturing (SIC Code 21).

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: boiler blowdown, cooling tower overflow and blowdown, ammonia refrigeration purging, and vehicle ~~washing/clean-out~~ washing and clean-out operations.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify the locations of the following activities if they are exposed to ~~precipitation/surface~~ precipitation or surface runoff: ~~vents/stacks~~ vents and stacks from cooking, drying, and similar operations; dry product vacuum transfer lines; animal holding pens; spoiled product; and broken product container storage areas.

b. Summary of potential pollutant sources. In addition to food and kindred products processing-related industrial activities, the plan shall also describe application and storage of pest control chemicals (e.g., rodenticides, insecticides, fungicides, etc.) used on plant grounds.

2. Storm water controls.

a. Routine facility inspections. At a minimum, the following areas, where the potential for exposure to storm water exists, shall be inspected on a ~~monthly~~ quarterly basis: loading and unloading areas for all significant materials; storage areas, including associated containment areas; waste management units; vents and stacks emanating from industrial activities; spoiled product and broken product container holding areas; animal holding pens; staging areas; and air pollution control equipment. The requirement for routine facility

inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

b. Employee training. The employee training program shall also address pest control.

D. Benchmark monitoring and reporting requirements. Dairy products, grain mills and fats and oils products facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 280.

Table 280-  
Sector U – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Dairy Products (SIC 2021-2026)	
Biochemical Oxygen Demand (BOD <sub>5</sub> )	30 mg/L
Total Suspended Solids (TSS)	100 mg/L
Grain Mill Products (SIC 2041-2048)	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L
Total Suspended Solids (TSS)	100 mg/L
Fats and Oils Products (SIC 2074-2079)	
Biochemical Oxygen Demand (BOD <sub>5</sub> )	30 mg/L
Total Nitrogen	2.2 mg/L
Total Suspended Solids (TSS)	100 mg/L

**9VAC25-151-290. Sector V - Textile mills, apparel, and other fabric products.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from textile mills, apparel and other fabric product manufacturing, generally described by SIC 22 and 23. This section also covers facilities engaged in manufacturing finished leather and artificial leather products (SIC 31, except 3111). Facilities in this sector are primarily engaged in the following activities: textile mill products, of and regarding facilities and establishments engaged in the preparation of fiber and subsequent manufacturing of yarn, thread, braids, twine, and cordage, the manufacturing of broad woven fabrics, narrow woven fabrics, knit fabrics, and carpets and rugs from yarn; processes involved in the dyeing and finishing of fibers, yarn fabrics, and knit apparel; the integrated manufacturing of knit apparel and other finished articles of yarn; the manufacturing of felt

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goods (wool), lace goods, nonwoven fabrics, miscellaneous textiles, and other apparel products.

B. Special conditions. Prohibition of nonstorm water discharges. In addition to the general nonstorm water prohibition in Part I B 1, the following discharges are not covered by this permit: discharges of wastewater (e.g., wastewater as a result of wet processing or from any processes relating to the production process); ~~reused/recycled~~ reused or recycled water; and waters used in cooling towers. These discharges must be covered under a separate VPDES permit.

C. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description. Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities: industry-specific significant materials and industrial activities (e.g., backwinding, beaming, bleaching, backing, bonding carbonizing, carding, cut and sew operations, desizing, drawing, dyeing, flocking, fulling, knitting, mercerizing, opening, packing, plying, scouring, slashing, spinning, synthetic-felt processing, textile waste processing, tufting, turning, weaving, web forming, winging, yarn spinning, and yarn texturing).

2. Storm water controls.

a. Good housekeeping measures.

(1) Material storage areas. All containerized materials (e.g., fuels, petroleum products, solvents, dyes, etc.) shall be clearly labeled and stored in a protected area, away from drains. The permittee shall describe and implement measures that prevent or minimize contamination of storm water runoff from such storage areas, and shall include a description of the containment area or enclosure for those materials that are stored outdoors. The permittee may consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances. The permittee shall ensure that empty chemical ~~drums/containers~~ drums and containers are clean (triple-rinsing shall be considered) and residuals are not subject to contact with ~~precipitation/runoff~~ precipitation or runoff. Washwater from these cleanings shall be collected and disposed of properly.

(2) Material handling area. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from materials handling operations and areas. The permittee shall consider the following measures (or their equivalents): use of ~~spill/overflow~~ spill and overflow protection; covering fueling areas; and covering and enclosing areas where the transfer of materials may occur. Where applicable, the plan shall address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, dyes, or wastewater.

(3) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection; minimizing runoff of storm water to the fueling areas; using dry cleanup methods; and treating ~~and/or~~ or recycling storm water runoff collected from the fueling area.

(4) Aboveground storage tank areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from aboveground storage tank areas, including the associated piping and valves. The permittee shall consider the following measures (or their equivalents): regular cleanup of these areas; preparation of a spill prevention control and countermeasure program (SPCC) to provide spill and overflow protection; minimizing runoff of storm water from adjacent areas; restricting access to the area; insertion of filters in adjacent catch basins; absorbent booms in unbermed fueling areas; use of dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

b. Routine facility inspections. Inspections shall be conducted at least monthly, and shall include the following activities and areas (at a minimum): transfer and transmission lines; spill prevention; good housekeeping practices; management of process waste products; all structural and nonstructural management practices. The requirement for routine facility inspections is waived for facilities that have maintained an active VEEP E3/E4 status.

c. Employee training. Employee training shall, at a minimum address, the following areas when applicable to a facility: use of ~~reused/recycled~~ reused or recycled waters; solvents management; proper disposal of dyes; proper disposal of petroleum products and spent lubricants; spill prevention and control; fueling procedures; and general good housekeeping practices.

~~d. Comprehensive Site Compliance Evaluation. Regularly scheduled evaluations shall be conducted at least once a year and address those areas contributing to a storm water discharge associated with industrial activity. Inspections shall look for evidence of, or the potential for, pollutants entering the drainage system from the following areas, as appropriate: storage tank areas; waste disposal and storage areas; dumpsters and open containers stored outside; materials storage areas; engine maintenance and repair areas; material handling areas and loading dock areas.~~

## 9VAC25-151-300. Sector W - Furniture and fixtures.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from facilities involved in

the manufacturing of wood kitchen cabinets (generally described by SIC Code 2434), and furniture and fixtures (generally classified under SIC Major Group 25), including: household furniture (SIC 251); office furniture (SIC 252); public buildings and related furniture (SIC 253); partitions, shelving, lockers, and office and store fixtures (SIC 254); and miscellaneous furniture and fixtures (SIC 259).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following item:

Site Map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface precipitation or surface~~ runoff: material storage areas (including tanks or other vessels used for liquid or waste storage); outdoor material processing areas; areas where wastes are treated, stored or disposed; access roads; and rail spurs.

#### **9VAC25-151-310. Sector X - Printing and publishing.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from printing and publishing facilities (generally classified under SIC Major Group 27), and include the following types of facilities: newspaper, periodical, and book publishing ~~and/or~~ and printing (SIC Codes 271 through 273); miscellaneous publishing (SIC Code 274); commercial printing (SIC Code 275); manifold business forms, greeting cards, bankbooks, looseleaf binders and book binding and related work (SIC Codes 276 through 278); and service industries for the printing trade (SIC 279).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description. ~~a. Site map. The site map shall identify where any of the following may be exposed to precipitation/surface runoff: aboveground storage tanks, drums and barrels permanently stored outside.~~ b. Summary of potential pollutant sources. The plan shall include a description of the following additional sources and activities that have potential pollutants associated with them, as applicable: loading and unloading operations; outdoor storage activities; significant dust or particulate generating processes; and on-site waste disposal practices (e.g., blanket wash). Also, the pollutant or pollutant parameter (e.g., oil and grease, scrap metal, etc.) associated with each pollutant source shall be identified.

2. Storm water controls.

a. Good housekeeping measures.

(1) Material storage areas. All containerized materials (skids, pallets, solvents, bulk inks, and hazardous waste, empty drums, ~~portable/mobile~~ portable or mobile containers of plant debris, wood crates, steel racks, fuel oil, etc.) shall be properly labeled and stored in a

protected area, away from drains. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from such storage areas and shall include a description of the containment area or enclosure for those materials which are stored outdoors. The permittee may consider an inventory control plan to prevent excessive purchasing of potentially hazardous substances.

(2) Material handling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from material handling operations and areas (e.g., blanket wash, mixing solvents, ~~loading/unloading~~ loading and unloading materials). The permittee shall consider the following measures (or their equivalents): the use of ~~spill/overflow~~ spill and overflow protection; covering fuel areas; and ~~covering/enclosing~~ covering or enclosing areas where the transfer of materials may occur. When applicable, the plan shall address the replacement or repair of leaking connections, valves, transfer lines and pipes that may carry chemicals, or wastewater.

(3) Fueling areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from fueling areas. The permittee shall consider the following measures (or their equivalents): covering the fueling area; using spill and overflow protection; minimizing runoff of storm water to the fueling area; using dry cleanup methods; and treating ~~and/or~~ or recycling storm water runoff collected from the fueling areas.

(4) Aboveground storage tank areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from aboveground storage tank areas, including the associated piping and valves. The permittee shall consider the following measures (or their equivalents): regular cleanup of these areas; preparation of a spill prevention control and countermeasure program (SPCC) to provide spill and overflow protection; minimizing runoff of storm water from adjacent facilities and properties; restricting access to the area; insertion of filters in adjacent catch basins; absorbent booms in bermed fueling areas; use of dry cleanup methods; and permanently sealing drains within critical areas that may discharge to a storm drain.

b. Employee training. Employee training shall, at a minimum, address the following areas when applicable to a facility: spent solvent management; spill prevention and control; used oil management; fueling procedures; and general good housekeeping practices.

#### **9VAC25-151-320. Sector Y - Rubber, miscellaneous plastic products, and miscellaneous manufacturing industries.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges

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associated with industrial activity from rubber and miscellaneous plastic products manufacturing facilities (SIC Major Group 30) and miscellaneous manufacturing industries, except jewelry, silverware, and plated ware (SIC Major Group 39, except 391).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items:

1. Site description. Summary of potential pollutant sources. Rubber manufacturing facilities shall review the use of zinc at the facility and the possible pathways through which zinc may be discharged in storm water runoff.

2. Storm water controls.

a. Controls for rubber manufacturers. Rubber manufacturing facilities shall describe and implement specific controls to minimize the discharge of zinc in storm water discharges from the facility. Listed below are possible sources of zinc. These shall be reviewed and the accompanying BMPs (or their equivalents) shall be considered in the SWPPP. Also, some general BMP options to consider include: using chemicals that are purchased in pre-weighed, sealed polyethylene bags; storing materials that are in use in sealable containers; ensuring an airspace between the container and the cover to minimize "puffing" losses when the container is opened; and using automatic dispensing and weighing equipment.

(1) ~~Inadequate housekeeping~~ Zinc bags. All permittees shall review the handling and storage of zinc bags at their facilities and consider the following BMP options: employee training regarding the ~~handling/storage~~ handling and storage of zinc bags; indoor storage of zinc bags; cleanup of zinc spills without washing the zinc into the storm drain; and the use of 2,500-pound sacks of zinc rather than 50- to 100-pound sacks.

(2) Dumpsters. The following BMPs shall be considered to reduce discharges of zinc from dumpsters: providing a cover for the dumpster; move the dumpster to an indoor location; or provide a lining for the dumpster.

(3) ~~Malfunctioning dust~~ Dust collectors or baghouses. Permittees shall review dust ~~collectors/baghouses~~ collectors and baghouses as possible sources ~~in~~ of zinc in storm water runoff. Improperly operating dust ~~collectors/baghouses~~ collectors and baghouses shall be replaced or repaired as appropriate.

(4) Grinding operations. Permittees shall review dust generation from rubber grinding operations at their facility and, as appropriate, install a dust collection system.

(5) Zinc stearate coating operations. Permittees shall include in the SWPPP appropriate measures to prevent or clean up ~~drips/spills~~ drips and spills of zinc stearate

slurry that may be released to the storm drain. Alternate compounds to zinc stearate shall also be considered.

b. Controls for plastic products manufacturers. Plastic products manufacturing facilities shall describe and implement specific controls to minimize the discharge of plastic resin pellets in stormwater discharges from the facility. The following BMPs (or their equivalents) shall be considered in the SWPPP: minimizing spills; cleaning up of spills promptly and thoroughly; sweeping thoroughly; pellet capturing; employee education; and disposal precautions.

C. Benchmark monitoring and reporting requirements. Rubber product manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 320.

Table 320-  
Sector Y – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Tires and Inner Tubes; Rubber Footwear; Gaskets, Packing and Sealing Devices; Rubber Hose and Belting; and Fabricated Rubber Products, Not Elsewhere Classified (SIC 3011-3069).	
Total Recoverable Zinc	120 µg/L

## 9VAC25-151-330. Sector Z - Leather tanning and finishing.

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from leather tanning, currying and finishing (commonly identified by SIC Code 3111).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: processing and storage areas of the beamhouse, tanyard, retan-wet finishing and dry finishing operations; ~~and haul roads, access roads and rail spurs.~~

b. Summary of potential pollutant sources. A description of potential pollutant sources including (as appropriate): temporary or permanent storage of fresh and brine cured hides; ~~chemical drums, bags, containers and aboveground tanks;~~ leather dust, scraps, trimmings and shavings; ~~spent solvents; and~~ extraneous hide substances and hair; ~~empty chemical containers and bags; floor sweepings/washings; refuse, waste piles and sludge; and significant dust/particulate generating processes (e.g., buffing).~~

2. Storm water controls.

a. Good housekeeping.

(1) Storage areas for raw, semiprocessed, or finished tannery by-products. ~~Pallets/bales~~ Pallets and bales of raw, semiprocessed or finished tannery by-products (e.g., splits, trimmings, shavings, etc.) shall be stored indoors or protected by polyethylene wrapping, tarpaulins, roofed storage area or other suitable means. Materials shall be placed on an impermeable surface, the area shall be enclosed or bermed, or other equivalent measures shall be employed to prevent ~~runon/runoff~~ runon or runoff of storm water.

(2) Material storage areas. Storage units of all materials should be labeled (e.g., specific chemicals, hazardous materials, spent solvents, waste materials). The permittee shall describe and implement measures that prevent or minimize contact with storm water.

(3) Buffing and shaving areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff with leather dust from ~~buffing/shaving~~ buffing and shaving areas. The permittee may consider dust collection enclosures, preventive ~~inspection/maintenance~~ inspection and maintenance programs or other appropriate preventive measures.

(4) Receiving, unloading, and storage areas. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from receiving, unloading, and storage areas. The following measures (or their equivalents) shall be considered for exposed receiving, unloading and storage areas: hides and chemical supplies protected by a suitable cover; diversion of drainage to the process sewer; and grade ~~berming/curbing~~ berming or curbing area to prevent runoff of storm water.

(5) Outdoor storage of contaminated equipment. The permittee shall describe and implement measures that prevent or minimize contact of storm water with contaminated equipment. The following measures (or their equivalents) shall be considered: equipment protected by suitable cover; diversion of drainage to the process sewer; thorough cleaning prior to storage.

(6) Waste management. The permittee shall describe and implement measures that prevent or minimize contamination of the storm water runoff from waste storage areas. The permittee shall consider the following measures (or their equivalents): ~~inspection/maintenance~~ inspection and maintenance programs for leaking containers or spills; covering dumpsters; moving waste management activities indoors; covering waste piles with temporary covering material such as tarpaulins or polyethylene; and minimizing storm water runoff by enclosing the area or building berms around the area.

C. Benchmark monitoring and reporting requirements. Leather tanning and finishing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 330.

Table 330-  
Sector Z – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Leather Tanning and Finishing (SIC 3111)	
Total Kjeldahl Nitrogen (TKN)	1.5 mg/L

**9VAC25-151-340. Sector AA - Fabricated metal products.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from the fabricated metals industry listed below, except for electrical related industries: fabricated metal products, except machinery and transportation equipment (SIC Code 34); and jewelry, silverware, and plated ware (SIC Code 391).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following items.

1. Site description.

a. Site Map. The site map shall identify where any of the following may be exposed to ~~precipitation/surface~~ precipitation or surface runoff: raw metal storage areas; finished metal storage areas; scrap disposal collection sites; equipment storage areas; retention and detention basins; ~~temporary/permanent~~ temporary or permanent diversion dikes or berms; right-of-way or perimeter diversion devices; sediment ~~traps/barriers~~ traps or barriers; processing areas including outside painting areas; wood preparation; recycling; and raw material storage.

b. Spills and Leaks. When listing significant ~~spills/leaks~~ spills and leaks, the permittee shall pay attention to the following materials, at a minimum: chromium, toluene, pickle liquor, sulfuric acid, zinc and other water priority chemicals and hazardous chemicals and wastes.

c. Summary of potential pollutant sources. The plan shall include a description of the potential pollutant sources from the following activities: loading and unloading operations for paints, chemicals and raw materials; outdoor storage activities for raw materials, paints, empty containers, corn cob, chemicals, scrap metals; outdoor manufacturing or processing activities such as grinding, cutting, degreasing, buffing, brazing, etc.; and on-site waste disposal practices for spent solvents, sludge, pickling baths, shavings, ingots pieces, refuse and waste piles.

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## 2. Storm water controls.

### a. Good housekeeping.

(1) Raw steel handling storage. The permittee shall describe and implement measures ~~controlling~~ for managing or recovering scrap metals, fines, and iron dust, including measures for containing materials within storage handling areas.

(2) Paints and painting equipment. The permittee shall describe and implement measures to prevent or minimize exposure of paint and painting equipment from exposure to storm water.

b. Spill prevention and response procedures. The permittee shall ensure that the necessary equipment to implement a ~~clean up~~ cleanup is available to personnel. The following areas shall be addressed:

(1) Metal fabricating areas. The permittee shall describe and implement measures for maintaining clean, dry, orderly conditions in these areas. Use of dry clean-up techniques shall be considered in the plan.

(2) Storage areas for raw metal. The permittee shall describe and implement measures to keep these areas free of conditions that could cause, or impede appropriate timely response to, spills or leakage of materials. The following measures (or their equivalents) shall be considered: storage areas maintained such that there is easy access in the event of a spill; stored materials labeled to aid in identifying spill contents.

~~(3) Receiving, unloading, and storage areas. The permittee shall describe and implement measures to prevent spills and leaks; plan for quick remedial clean up and instruct employees on clean up techniques and procedures.~~

~~(4) Storage of equipment. The permittee shall describe and implement measures for preparing equipment for storage and the proper method to store equipment. The following measures (or their equivalents) shall be considered: protecting with covers; storing indoors; and cleaning potential pollutants from equipment to be stored outdoors.~~

~~(5) (3) Metal working fluid storage areas. The permittee shall describe and implement measures for storage of metal working fluids.~~

~~(6) (4) Cleaners and rinse water. The permittee shall describe and implement measures to ~~control/cleanup~~ control and clean up spills of solvents and other liquid cleaners; control sand buildup and disbursement from sand-blasting operations; and prevent exposure of recyclable wastes. Environmentally benign cleaners shall be substituted when possible.~~

~~(7) (5) Lubricating oil and hydraulic fluid operations. The permittee shall describe and implement measures to minimize the potential for storm water contamination from lubricating oil and hydraulic fluid operations. The~~

permittee shall consider using devices or monitoring equipment or other devices to detect and control ~~leaks/overflows~~ leaks and overflows. The installation of perimeter controls such as dikes, curbs, grass filter strips, or other equivalent measures shall also be considered.

~~(8) (6) Chemical storage areas. The permittee shall describe and implement proper storage methods that prevent storm water contamination and accidental spillage. The plan shall include a program to inspect containers, and identify proper disposal methods.~~

c. Inspections. Metal fabricators shall at a minimum include the following areas for inspection: raw metal storage areas; finished product storage areas; material and chemical storage areas; recycling areas; loading and unloading areas; equipment storage areas; paint areas; and vehicle fueling and maintenance areas.

d. Comprehensive site compliance evaluation. The site compliance evaluation shall also include inspections of: areas associated with the storage of raw metals; storage of spent solvents and chemicals; outdoor paint areas; and roof drainage. Potential pollutants include chromium, zinc, lubricating oil, solvents, aluminum, oil and grease, methyl ethyl ketone, steel and other related materials.

C. Benchmark monitoring and reporting requirements. Metal fabricating facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 340.

Table 340-  
Sector AA – Benchmark Monitoring Requirements-

Pollutants of Concern	Benchmark Concentration
Fabricated Metal Products Except Coating (SIC 3411-3471, 3482-3499, 3911-3915)	
Total Recoverable Aluminum	750 µg/L
Total Recoverable Iron	1.0 mg/L
Total Recoverable Zinc	120 µg/L
<u>Total Recoverable Copper</u>	<u>18 µg/L</u>
Fabricated Metal Coating and Engraving (SIC 3479)	
Total Recoverable Zinc	120 µg/L

### **9VAC25-151-350. Sector AB - Transportation equipment, industrial, or commercial machinery.**

A. Discharges covered under this section. The requirements listed under this section apply to storm water discharges associated with industrial activity from transportation equipment, industrial or commercial machinery manufacturing facilities (commonly described by SIC Major Group 35 (except SIC Code 357), and SIC Major Group 37 (except SIC Code 373)).

B. Storm water pollution prevention plan requirements. In addition to the requirements of Part III, the SWPPP shall include, at a minimum, the following ~~items~~ item:

~~1. Site description. Site map. The site map shall identify where any of the following may be exposed to precipitation/surface precipitation or surface runoff: vents and stacks from metal processing and similar operations.~~

~~2. Storm water controls. Nonstorm water discharges. For facilities that discharge wastewater, other than solely domestic wastewater, to the sanitary sewer system, the permittee shall notify the operator of the sanitary sewer and associated treatment works of its discharge. In such cases, a copy of a notification letter shall be attached to the plan. Any specific permit conditions shall be considered in the plan.~~

C. Benchmark monitoring and reporting requirements. Transportation equipment manufacturing facilities are required to monitor their storm water discharges for the pollutants of concern listed in Table 350.

Table 350  
Sector AB – Benchmark Monitoring Requirements

<u>Pollutants of Concern</u>	<u>Benchmark Concentration</u>
<u>Transportation equipment manufacturing facilities (SIC 35, except 357, and SIC 37, except 373)</u>	
<u>Total Petroleum Hydrocarbons (TPH)*</u>	<u>15.0 mg/L</u>
<u>Total Suspended Solids (TSS)</u>	<u>100 mg/L</u>
<u>Total Recoverable Copper</u>	<u>18 µg/L</u>
<u>Total Recoverable Zinc</u>	<u>120 µg/L</u>
<u>*Total Petroleum Hydrocarbons (TPH) is the sum of individual gasoline range organics and diesel range organics (TPH-GRO and TPH-DRO) to be measured by EPA SW 846 Method 8015 for gasoline and diesel range organics, or by EPA SW 846 Methods 8260 Extended and 8270 Extended.</u>	

**9VAC25-151-370. Sector AD - Nonclassified facilities/storm water discharges designated by the board as requiring permits.**

A. Discharges covered under this section. Sector AD is used to provide permit coverage for facilities designated by the board as needing a storm water permit, ~~or any discharges of industrial activity that do not meet the description of an industrial activity covered by Sectors A-AC under the provisions of 9VAC25-31-120 A 1 c or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.~~ Therefore, almost any type of storm water discharge could be covered under this sector. Permittees shall be assigned to

Sector AD by the ~~director~~ board and may not choose Sector AD as the sector describing the facility's activities.

B. Additional requirements. No additional sector-specific requirements apply to this sector.

C. Benchmark monitoring and reporting requirements. Nonclassified facilities/storm water discharges designated by the board as requiring permits are required to monitor their storm water discharges for the pollutants of concern listed in Table 370.

Table 370-  
Sector AD - Benchmark Monitoring Requirements-

<u>Pollutants of Concern</u>	<u>Benchmark Concentration</u>
<u>Nonclassified Facilities/Storm Water Discharges Designated By the Board As Requiring Permits</u>	
<u>Total Suspended Solids (TSS)</u>	<u>100 mg/L</u>

**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.

FORMS (9VAC25-151)

~~Department of Environmental Quality Water Quality Division Permit Application Fee Form (rev. 1/08).~~

~~VPDES General Permit Registration Statement—Industrial Activity Storm Water Discharges, SWGP VAR05-RS (eff. 7/09).~~

~~VPDES General Permit Notice of Termination—Industrial Activity Storm Water Discharges, SWGP VAR05-NOT (eff. 7/09).~~

~~Virginia Pollutant Discharge Elimination System (VPDES) Discharge Monitoring Report (DMR)—Industrial Activity Storm Water Discharges (eff. 7/09).~~

~~VPDES Change of Ownership Agreement Form.~~

~~Department of Environmental Quality Water Quality Division Permit Application Fee Form (rev. 5/13).~~

~~VPDES General Permit for Industrial Activity Storm Water Discharges (VAR05) Registration Statement, SWGP VAR05-RS (eff. 7/14).~~

~~VPDES General Permit for Industrial Activity Storm Water Discharges (VAR05) Notice of Termination, SWGP VAR05-NOT (eff. 7/14).~~

~~Virginia Pollutant Discharge Elimination System (VPDES) Discharge Monitoring Report (DMR) (eff. 7/14).~~

~~Virginia Pollutant Discharge Elimination System Change of Ownership Form (undated).~~

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## DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-151)

Standard Industrialization Classification (SIC) Manual, 1987, Office of Management and Budget.

~~Modified DRO Method for Determining Diesel Range Organics, PUBL SW 141, September 1995, Wisconsin Department of Natural Resources.~~

Method 8015C, Nonhalogenated Organics Using GC/FID, Revision 3, November 2000, U.S. Government Printing Office.

Method 8015C, Nonhalogenated Organics Using GC/FID, Revision 3, February 2007, U.S. Government Printing Office.

Method 8260B, Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 2, December 1996, U.S. Government Printing Office.

Method 8260C, Volatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 3, August 2006, U.S. Government Printing Office.

Method 8270C, Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 3, December 1996, U.S. Government Printing Office.

Method 8270D, Semivolatile Organic Compounds by Gas Chromatography/Mass Spectrometry (GC/MS), Revision 4, February 2007, U.S. Government Printing Office.

VA.R. Doc. No. R13-3382; Filed June 24, 2013, 10:44 a.m.

### Proposed Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** 9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (amending 9VAC25-190-10, 9VAC25-190-20, 9VAC25-190-50, 9VAC25-190-60, 9VAC25-190-70; adding 9VAC25-190-15; repealing 9VAC25-190-65).

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122, 123, and 124.

### Public Hearing Information:

August 29, 2013 - 1:30 p.m. - Department of Environmental Quality, Piedmont Regional Office, Training Room, 4949-A Cox Road, Glen Allen, VA

**Public Comment Deadline:** September 13, 2013.

**Agency Contact:** Eleanore M. Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, TTY (804) 698-4021, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

**Substance:** 9VAC25-190-10 – Definitions. Added definitions for best management practices (BMPs), department (DEQ), municipal separate storm sewer system (MS4), significant spills, and total maximum daily load (TMDL). This terminology is used in the regulation and needed explanation. Also, the amendments deleted metallic products and food processing raw material from the definition of significant materials since these materials would not be found at these facilities and clarified the vehicle/equipment washing definition to match the terminology used in a similar general permit (concrete products).

9VAC25-190-20 and 9VAC25-190-70 – Purpose and Part I. Effective dates were updated to reflect this reissuance.

9VAC25-190-50 A, B – Authorization. Reformatted to match structure of other general permits being issued at this time and added that an owner will be denied authorization when the discharge would violate the antidegradation policy. This change is based on U.S. Environmental Protection Agency (EPA) comments provided on other general permits reissued recently. The requirement that the discharge must meet the assumptions and requirements of a TMDL was reworded to match other general permits.

9VAC25-190-50 C – Added the statement "Compliance with this general permit constitutes compliance with the Clean Water Act, the State Water Control Law, and applicable regulations under either, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation." This was added in response to Attorney General Office comments on other general permits recently reissued to recognize there are some exceptions to compliance with the Clean Water Act as stated in the permit regulation.

9VAC25-190-50 D – Added language to allow for administrative continuances of coverage under the old, expired general permit until the new permit is reissued, and coverage is granted or coverage is denied, provided that the permittee has submitted a timely registration and is in compliance with the existing permit. This language is being added to all recently reissued general permits so permittees can discharge legally and safely if the permit reissuance process is delayed.

9VAC25-190-60 A – Registration. Reformatted this section to match the structure of other recently reissued general permits. Facilities currently holding an individual Virginia

Pollutant Discharge Elimination System (VPDES) permit and requesting coverage under this general permit must notify DEQ 210 days prior to the expiration date of their individual permits, rather than 180 days prior to the expiration dates of the permits. This change gives DEQ 30 days to determine whether coverage can be granted, and the individual permit holder then still has the required 180 days to submit an individual permit application if the request for coverage under the general permit is denied. Existing facilities registration submittal dates were revised to April 1, 2014, which is 90 days prior to expiration instead of 180 days prior. New facilities must submit a registration statement at least 45 days prior to commencement of discharge rather than 30 days prior. These are substantive changes.

9VAC25-190-60 B – Added language accepting late registration statements (after July 1, 2014, the effective date of the regulation), but stated that authorization to discharge will not be retroactive and provides that existing permittees may be granted administrative continuance of an existing permit if a complete registration statement is submitted before July 1, 2014.

9VAC25-190-60 C – Several minor edits to the registration statement questions were made for clarification. The following notification requirement was added to the registration statement in subdivision 15 of subsection C: "Whether the facility will discharge to a municipal separate storm sewer system (MS4). If so, provide the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit, and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number." This notification is a permit requirement and the Technical Advisory Committee (TAC) thought it should be repeated as a reminder in the registration process. The question "Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities" was added in subdivision 16 of subsection C because the answer to this question is necessary to determine if total petroleum hydrocarbon limits are required. The requirement to submit monitoring data to determine compliance with a new special condition for Chickahominy watershed discharges that reflect the existing Chickahominy special standards in the water quality standards regulation (see explanation for Part I B 14 below) was added. Also, vehicle equipment or degreasing activities and vehicle washing and return water from operations where mined material is dredged were added to the characterization of each outfall's discharge because they are part of the process water definition. These are substantive changes.

9VAC25-190-60 E – Added the allowance for registration statements to be submitted electronically as well as by postal

mail. Previously, registration statements were only submitted as a hard copy with the original signature, but the agency and the TAC thought electronic submissions of registration statements are appropriate at this time. This is a substantive change.

9VAC25-190-65 – Repealed this section, "Termination of permit coverage," and moved it inside the permit itself. This section contains requirements for termination so it is more appropriate as part of the permit.

9VAC25-190-70 Part I A 1 and 2 – General permit limits pages for process water and storm water. Special conditions have been included in the introductory paragraph to Part I, summarizing the requirements of the permit (along with effluent limitations, monitoring, storm water management, and conditions applicable to all permits). The footnotes have been rearranged in Parts I A 1 and 2 so that they are in order in the limits table. Also, footnote 3 for process water (Part I A 1) states that total petroleum hydrocarbon monitoring is only necessary when vehicle degreasing occurs on site. Vehicle degreasing or equipment degreasing has been clearly defined to mean the washing or steam cleaning of engines or other drive components of a vehicle or of equipment in which the purpose is to degrease and clean petroleum products. It does not mean washing sediment off of trucks. Also the TPH methods in footnote 3 for Part I A 1 are included, and the requirement for "no discharge of floating solids or visible foam" is moved to Part I B 10 (special conditions). In Part I A 2 (storm water limits table), the timing requirements for collecting a storm water sample (at least three days from preceding storm event and during the first 30 minutes of discharge) has been moved to Part II A (monitoring requirements for storm water) with some changes (see explanation for Part II).

9VAC25-190-70 Part I B 1 – Special conditions. The requirement to clean up spilled fluids was revised to delete the words "to the maximum extent possible."

9VAC25-190-70 Part I B 6 – The requirement to modify, revoke, and reissue the permit if a more stringent effluent standard or limit is promulgated by EPA was deleted. General permits are not modified, revoked, or reissued.

9VAC25-190-70 Part I B 10 – The requirement that "There shall be no discharge of floating solids or visible foam in other than trace amounts" was moved into this section from the limits table in Part I A 1. The addition of the requirement that "There shall be no solids deposition or oil sheen from petroleum products in surface water as a result of the industrial activity in the vicinity of the outfall" was added to another general permit (concrete products) and thought to be applicable to this permit as well. It serves as an added measure of protection and something the inspector can look for to ensure proper BMPs, clean up measures, or treatment is occurring.

9VAC25-190-70 Part I B 11 – A definition of "vehicle/equipment washing" is deleted because it had no

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requirement associated with it and was already in 9VAC25-190-10 (Definitions).

9VAC25-190-70 Part I B 14 – A requirement to meet the Chickahominy special standards (from the water quality standards regulation at 9VAC25-260-310 m) was added. These special standards contain more stringent effluent limits for several parameters for discharges to the Chickahominy watershed. It was included so that any nonmetallic mining permits in that watershed could be eligible for this general permit. This is a substantial change.

9VAC25-190-70 Part I B 15 – Reworded the requirement "to meet applicable water quality standards" to match the wording used in other recently reissued general permits.

9VAC25-190-70 Part I B 16 – Added a new special condition that describes how temporary facility closures at inactive and unstaffed sites will be implemented. The same condition was recently added to another general permit (concrete products). It previously only applied to storm water but now can be implemented for the entire site and now requires board approval and a 30-day reactivation notification. Also, no discharge monitoring reports are required while the facility is inactive and unstaffed. This is a substantive change.

9VAC25-190-70 Part I B 17 – Added a new special condition that describes how terminations of a general permit will be implemented. This is being added to all general permits as they are reissued.

9VAC25-190-70 Part II – Storm Water Management. This entire section was revised to match (for the most part) language in the 2009 Industrial Storm Water General Permit. Some minor differences can be found but these were done with TAC consensus. While most of the language changes seem substantive, the actual requirements for storm water management have not changed significantly.

One edition that the TAC discussed in detail was the timing requirements moved from Part I A 2 (storm water limits table). It has been clarified that samples from a storm water management structure, which are a series of large settling lagoons, must meet the representative samples requirement. There is no additional timing requirements to obtain a "first flush" of storm water, which is, at most industrial sites, considered the worst case scenario and containing the most pollutants. The timing requirements for typical storm water samples are at least three days from the preceding storm event and during the first 30 minutes of discharge. However, this is not the case when the discharge is through a series of large storm water management structures that hold and settle the solids over time and rarely discharge. If they do discharge, the storm water that is discharged is from the end of the series of control structures where the water has been in the ponds the longest and therefore, the most settled. This sampling requirement for a representative discharge from the storm water control structure versus other storm water discharges was in the 2009 permit, but was not clear.

Another edition was included in sampling waivers. Previously, when a permittee was unable to collect a sample within the monitoring period (annually) due to adverse weather conditions, the permittee was required to collect a substitute sample from the next qualifying event in the next period. Since this permit only required annual sampling, the TAC added a requirement that the permittee must attempt to sample at least four times during the annual sampling period. This change is consistent with the quarterly visual exams and routine inspections.

Part III A – Added "Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories." This is a new regulatory requirement effective January 1, 2012, and is being added to all general permits as they are reissued.

Part III L – Removed requirement to meet sewage sludge standards as sewage discharges are not covered by this permit.

9VAC25-190-70 Part II Y – Transfer of permits. Revised so that the board may waive the automatic transfer timing (30 days in advance of proposed transfer). Permittees are rarely able to meet this requirement and the staff thinks they need flexibility with this. Also references to modifications and revocations and reissuances have been removed as these events are not appropriate for coverage under general permits.

## Summary:

*The proposed amendments reissue the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on June 30, 2014. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from nonmetallic mineral mining to surface waters. The general permit regulation is being reissued in order to continue making it available for these facilities to continue to discharge, and it will remain effective for five years beginning July 1, 2014, and expiring June 30, 2019.*

## **9VAC25-190-10. Definitions.**

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-10 ~~et seq.~~) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

"Best management practices" or "BMPs" means schedules of activities, practices (and prohibitions of practices), structures, vegetation, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to surface waters. BMPs also include treatment requirements, operating procedures, and practices to control

plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

"Colocated facility" means an industrial activity other than mineral mining operating on a site where the primary industrial activity is mineral mining. Such an activity must have wastewater characteristics similar to those of the mineral mine and be located within the permitted mining area. The term refers to activities that are commonly found at mining sites such as manufacturing of ready-mix concrete (SIC Code 3273), concrete products (SIC Codes 3271 and 3272), and asphalt paving materials (SIC Code 2951) except asphalt emulsion manufacturing. It does not mean industrial activity that is specifically excluded from this permit.

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

"Industrial activity" means activity associated with mineral mining facilities generally identified by SIC Major Group 14 including active or inactive mining operations that discharge storm water that has come into contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. (Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.) Industrial activity also includes facilities classified under other SIC codes that may be colocated within the mineral mine permit area, unless they are expressly excluded by this general permit.

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains (i) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) that is not a combined sewer; and (iv) that is not part of a publicly owned treatment works (POTW).

"Permittee" means the owner of a nonmetallic mineral mine covered under this general permit.

"Process wastewater" means any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining, and any other water that becomes commingled with such wastewater in a pit, pond,

lagoon, mine, or other facility used for treatment of such wastewater. It includes mine pit dewatering, water used in the process of washing stone, noncontact cooling water, wastewater from ~~vehicle/equipment washing~~ vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged and miscellaneous plant cleanup wastewaters.

"Run-off coefficient" means the fraction of total rainfall that will appear at the conveyance as run-off.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 Edition.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials ~~such as metallic products; raw materials used in food processing or production;~~ hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the owner is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11001 et seq.); fertilizers; pesticides; and waste products such as ashes, slag and sludge (including pond sediments) that have the potential to be released with storm water discharges.

"Significant spills" includes, but is not limited to, releases of oil or hazardous substances in excess of reportable quantities under § 311 of the Clean Water Act (see 40 CFR 110.10 and 40 CFR 117.21) or § 102 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.) (see 40 CFR 302.4).

"Storm water" means storm water run-off, snow melt run-off, and surface run-off and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the mineral mine; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and

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significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

"Vehicle/equipment washing" "Vehicle or equipment degreasing" means the washing with detergents or steam cleaning of engines of a vehicle or piece of equipment and other drive components in which the purpose is to clean and degrease and clean petroleum products from the equipment for maintenance and other purposes. The application of water without detergent to a Washing the vehicle exterior for the purpose of removing sediment is excluded not considered vehicle or equipment degreasing.

## **9VAC25-190-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations is referenced or adopted herein and incorporated by reference that regulation shall be as it exists and has been published as of July 1, 2013.

## **9VAC25-190-20. Purpose; delegation of authority; effective date of permit.**

A. The purpose of this chapter is to establish General Permit Number VAG84 to regulate wastewater discharge from nonmetallic mineral mines as follows:

1. For active and inactive nonmetallic mineral mining facilities in SIC Major Group 14, this general permit covers discharges composed entirely of storm water associated with industrial activity.
2. This general permit authorizes the discharge of process wastewater as well as storm water associated with industrial activity from active and inactive mineral mines classified under ~~Standard Industrial Classification~~ SIC Codes 1411, 1422, 1423, 1429, 1442, 1455, 1459 excluding bentonite and magnesite mines, 1475, and 1499 excluding gypsum, graphite, asbestos, diatomite, jade, novaculite, wollastonite, tripoli or asphaltic mineral mines.
3. Coal mining, metal mining, and oil and gas extraction are not covered by this general permit.

B. The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on July 1, ~~2009~~ 2014, and will expire ~~five years after the effective date~~ June 30, 2019. For any covered owner, this general permit is effective upon compliance with all the provisions of 9VAC25-190-50 and the receipt of this general permit.

## **9VAC25-190-50. Authorization to discharge.**

A. Any owner governed by this general permit is authorized ~~by this~~ to discharge process wastewater and storm water as ~~described in 9VAC25-190-20 A 1 and 2~~ to surface waters of the Commonwealth of Virginia ~~provided that the owner files a registration statement as described in 9VAC25-190-60 that is accepted by the board, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-190-70, and provided that:~~

1. The owner submits a registration statement in accordance with 9VAC25-190-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-190-70;
4. The owner has a mineral mining permit for the operation to be covered by this general permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or an associated waived program, locality, or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement; and
5. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner ~~shall not have been~~ is required to obtain an individual permit ~~as may be required in the VPDES permit regulation (9VAC25-31).~~ in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner ~~shall not be authorized by this general permit~~ is proposing to discharge to state waters specifically named in other board regulations ~~or policies which that~~ prohibit such discharges;
3. The owner ~~shall have a mineral mining permit for the operation to be covered by this general permit which has~~

been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program, locality or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement.

4. The owner shall implement pollution control measures necessary to comply with the conditions and limitations of this general permit including, but not limited to, the installation, operation and maintenance of sediment control structures.

5. The owner shall not be authorized by this general permit to discharge to waters for which a "total maximum daily load" (TMDL) allocation has been established by the board and approved by EPA prior to the term of this permit, unless the owner develops, implements and maintains a storm water pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements of the TMDL. This only applies where the facility is a source of the TMDL pollutant of concern.

3. The discharge violates or would violate the antidegradation policy in the water quality standards at 9VAC25-260-30; or

4. The discharge is not consistent with the assumptions and requirements of an approved TMDL.

B. The board shall deny coverage under this general permit to any owner with discharge or storm water discharge related activities which the board determines cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to adversely affect aquatic life.

C. Receipt of Compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law, with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the nonmetallic mineral mining general permit issued in 2009 and that submits a complete registration statement on or before July 1, 2014, is authorized to continue to discharge under the terms of the 2009 general permit until such time as the board either:

a. Issues coverage to the owner under this general permit; or

b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

a. Initiate enforcement action based upon coverage under the 2009 general permit that has been continued;

b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by coverage under the 2009 continued general permit or be subject to enforcement action for discharging without a permit;

c. Issue an individual permit with appropriate conditions; or

d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

## **9VAC25-190-60. Registration statement.**

The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for nonmetallic mineral mining. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for operation of the mineral mine. Any owner of an existing mineral mine covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing mineral mine covered by the general VPDES permit for nonmetallic mineral mining that became effective on June 30, 1999, who wishes to remain covered by this general permit shall file a new registration statement in accordance with the general permit requirements in order to avoid a lapse in coverage. Any owner of an existing mineral mine not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information: A. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for nonmetallic mineral mining facilities.

1. New facilities. Any owner proposing a discharge shall submit a complete registration statement at least 45 days prior to the date planned for commencement of the discharge.

2. Existing facilities.

a. Any owner covered by an individual VPDES permit that is proposing to be covered by this general permit

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shall submit a complete registration statement at least 210 days prior to the expiration date of the individual VPDES permit.

b. Any owner that was authorized to discharge under the VPDES general permit for nonmetallic mineral mining that became effective on July 1, 2009, and that intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before April 1, 2014.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted after July 1, 2014, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit registration statements after April 1, 2014, are authorized to discharge under the provisions of 9VAC25-190-50 D if a complete registration statement is submitted on or before July 1, 2014.

C. The required registration statement shall contain the following information:

1. Facility ~~name~~, owner and operator or other contact name, ~~mailing~~ address, email address, and telephone number;
2. ~~Project~~ Facility name, county, location, latitude, and longitude;
3. Description of mining activity;
4. Primary and secondary SIC codes;
5. Discharge information including:
  - a. A list of outfalls identified by outfall numbers;
  - b. Characterization of the type of each listed outfall's discharge as either process wastewater, storm water, or process wastewater commingled with storm water;
  - c. Characterization of the source of each listed outfall's discharge as either mine pit dewatering, storm water associated with industrial activity (see definition in ~~9VAC25-115-10~~ 9VAC25-190-10), storm water not associated with industrial activity, ground water infiltration, wastewater from ~~vehicle and/or equipment washing activities~~ vehicle or equipment degreasing activities, vehicle washing and return water from operations where mined material is dredged, mined material washing, noncontact cooling water, miscellaneous plant cleanup wastewater, colocated facility discharges (identify the colocated facility), other discharges not listed here (describe), or any combination of the above;
  - d. The receiving stream, including wetlands for each outfall listed;
  - e. The latitude and longitude for each outfall listed; and
  - f. Indicate which storm water outfalls will be representative outfalls that require a single Discharge Monitoring Report (DMR). For storm water outfalls that are to be represented by other outfall discharges, provide

a description of the activities associated with those outfalls and explain why they are substantially the same as the representative outfall to be sampled;

6. Indicate if the facility has a current VPDES permit and the permit number if it does;
7. Description of wastewater treatment or reuse/recycle systems or both;
8. List of any chemicals added to water that could be discharged;
9. List of colocated facilities;
10. Indicate if the facility is a hazardous waste treatment, storage or disposal facility;
11. Schematic drawing showing water flow from source to water-using industrial operations to waste treatment and disposal, and disposal of any solids removed from wastewater;
12. Aerial photo or scale map that clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, storm water or process wastewater outfalls and the receiving streams;
13. Evidence that the operation to be covered by this general permit has a mining permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia (or appropriate bordering state authorization). Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement;
14. Mining permit number;
15. ~~Indicate if the facility discharge storm water into a Municipal Separate Storm Sewer System (MS4). If yes, state the name of the MS4 operator. Whether the permitted outfall will discharge to a municipal separate storm sewer system (MS4). If so, provide the name of the MS4 owner. The owner of the facility shall notify the MS4 owner in writing of the existence of the discharge within 30 days of coverage under the general permit and shall copy the DEQ regional office with the notification. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number~~
16. Indicate if there are vehicle or equipment degreasing activities performed on site. If yes, indicate if there is any process wastewater generated from these activities.
- ~~16. The owner shall not be authorized by this general permit unless the discharge complies with Virginia's antidegradation policy in the Water Quality Standards at~~

~~9VAC25-260-30.~~ The department will notify the applicant if authorization to discharge under this general permit will not comply with the antidegradation requirements set forth in ~~9VAC25-260-30.~~

17. Monitoring data to determine compliance with 9VAC25-260-310 m (Chickahominy special standards) as per Part I B 14 of this permit.

~~17- 18.~~ The following certification:

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

D. The registration statement shall be signed in accordance with 9VAC25-31-110.

E. Where to submit. The registration statement may be delivered to the department by either postal or electronic mail and shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

**9VAC25-190-65. Termination of permit coverage. (Repealed.)**

~~A.~~ The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:

- ~~1. Operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;~~
- ~~2. A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted); or~~
- ~~3. All storm water discharges associated with industrial activity have been covered by an individual VPDES permit.~~

~~B.~~ The notice of termination shall contain the following information:

- ~~1. Owner's name, mailing address and telephone number;~~
- ~~2. Facility name and location;~~
- ~~3. VPDES industrial storm water general permit number;~~
- ~~4. The basis for submitting the notice of termination, including:~~
  - ~~a. A statement indicating that a new owner has assumed responsibility for the facility;~~

~~b.~~ A statement indicating that operations have ceased at the facility and there are no longer discharges of storm water associated with industrial activity from the facility;

~~e.~~ A statement indicating that all storm water discharges associated with industrial activity have been covered by an individual VPDES permit; or

~~d.~~ A statement indicating that termination of coverage is being requested for another reason (state the reason); and

~~5.~~ The following certification: "I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge storm water associated with industrial activity in accordance with the general permit, and that discharging pollutants in storm water associated with industrial activity to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

~~C.~~ The notice of termination shall be signed in accordance with 9VAC25-190-70, Part III K.

~~D.~~ The notice of termination shall be submitted to the DEQ regional office serving the area where the industrial facility is located.

**9VAC25-190-70. General permit.**

Any owner whose registration statement is accepted by the board will receive coverage under the following permit and shall comply with the requirements in it and be subject to all requirements of the VPDES permit regulation, 9VAC25-31.

General Permit No.: VAG84

Effective date: July 1, 2009 July 1, 2014

Expiration date: ~~June 30, 2014~~ June 30, 2019

GENERAL PERMIT FOR NONMETALLIC MINERAL MINING

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations ~~or policies which~~ that prohibit such discharges.

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The authorized discharge shall be in accordance with this Management, and Part III - Conditions Applicable to All cover page, Part I - Effluent Limitations—and, Monitoring VPDES Permits, as set forth herein. Requirements, and Special Conditions, Part II - Storm Water

## Part I Effluent Limitations and Monitoring Requirements

### A. Effluent limitations and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater and commingled storm water associated with industrial activity from outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency <sup>(2)</sup> (1)	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Grab
pH (standard units) <sup>(2)</sup>	NA	6.0 <sup>(4)</sup>	9.0 <sup>(4)</sup>	1/3 Months	Grab
Total Petroleum Hydrocarbons (mg/l) <sup>(2)</sup> (3)	NA	NA	NL	1/3 Months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

<sup>(4)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, pH effluent limits may be adjusted within the 6 to 9 S.U. range.

<sup>(2)</sup>Monitoring for Total Petroleum Hydrocarbons is only required for outfalls from vehicle/equipment washing facilities or from discharges that pass through oil/water separators.

<sup>(3)</sup>Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

<sup>(1)</sup>Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

<sup>(2)</sup>Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, those standards shall be the minimum and maximum pH effluent limits.

<sup>(3)</sup>Monitoring for total petroleum hydrocarbons is only required for outfalls that contain process wastewater from vehicle or equipment degreasing activities. Total petroleum hydrocarbons shall be analyzed using EPA SW-846 Method 8015 B (1996), 8015C (2000), 8015C (2007), 8015 D (2003) for diesel range organics, or EPA 40 CFR 136.

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

3. 2. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other wastewaters prior to discharge from outfall(s).

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency <sup>(2)</sup> (1)	Sample Type
Flow (MG)	NA	NA	NL	1/Year	Estimate <sup>(4)</sup> (2)

Total Suspended Solids (mg/l)	NA	NA	NL <sup>(3)</sup>	1/Year	Grab
pH (standard units)	NA	NL	NL	1/Year	Grab

NL = No Limitation, monitoring required

NA = Not applicable

<sup>(1)</sup>Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.

<sup>(4)(2)</sup>Estimate of the total volume of the discharge during the storm event.

<sup>(2)</sup>Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.

<sup>(3)</sup>Refer to Part I B 4312 should the TSS evaluation monitoring exceed 100 mg/l daily maximum.

~~4. All samples taken to meet the monitoring requirements specified above in Part I A 3 shall be collected on a storm event that results in an actual discharge (defined as a "measurable storm event") that follows the preceding measurable storm event by at least 72 hours (three days). The 72 hour (three day) storm interval does not apply if the permittee is able to document that less than a 72 hour (three day) interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the storm water discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable. In the case of snowmelt or a discharge from a storm water settling lagoon, a representative sample shall be taken at the time the discharge occurs.~~

Mining (or associated waived program, or bordering state mine authority) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.

5. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter (100 µg/l);
- (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the permit application; or
- (4) The level established by the board.

~~6. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the~~

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.

2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement.

4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral

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~~federal Clean Water Act, if the effluent standard or limitation so issued or approved:~~

- ~~a. Is more stringent than any effluent limitation on the pollutant already in the permit; or~~
- ~~b. Controls any pollutant not limited in the permit.~~

~~7. 6.~~ Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

~~8. 7.~~ There shall be no discharge of process wastewater pollutants from colocated asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing which come into direct contact with any raw materials, intermediate product, by-product or product related to the asphalt paving materials manufacturing process.

~~9. 8.~~ Process water may be used on site for the purpose of dust suppression. Dust suppression shall be carried out as a best management practice but not as a wastewater disposal method provided that ponding or direct ~~run-off~~ run-off from the site does not occur during or immediately following its application.

~~10. 9.~~ Process water from mine dewatering may be provided to local property owners for beneficial agricultural use.

~~11. Vehicle/equipment washing shall include washing with detergents or steam cleaning of engines and other drive components in which the purpose is to clean and decrease the equipment for maintenance and other purposes. The application of water without detergent to a vehicle exterior for the purpose of removing is excluded.~~

10. There shall be no discharge of floating solids or visible foam in other than trace amounts. There shall be no solids deposition or oil sheen from petroleum products in surface water as a result of the industrial activity in the vicinity of the outfall.

~~12. 11.~~ The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

~~13. 12.~~ Storm Water Monitoring Total Suspended Solids (TSS) Evaluation. Permittees that monitor storm water associated with industrial activity which does not combine with other wastewaters prior to discharge shall review the results of the TSS monitoring required by Part I A ~~3 2~~ to

determine if changes to the Storm Water Pollution Prevention Plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform the inspection and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected in a timely manner.

~~14. 13.~~ Discharges to waters subject to TMDL waste load allocations. Facilities Owners of facilities that are a source of the specified pollutant of concern to waters for which a total maximum daily load (TMDL) waste load allocation has been ~~established by the board and~~ approved by EPA prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part II that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. If the TMDL establishes a numeric wasteload allocation that applies to discharges from the facility, the owner shall perform any required monitoring in accordance with Part I A and implement measures necessary to meet that allocation.

14. Discharges in the entire Chickahominy watershed above Walker's Dam (excluding discharges consisting solely of storm water) shall also meet the effluent limitations in 9VAC25-260-310 m (special standards and requirements) of the January 6, 2011, water quality standards regulation. These limitations are BOD<sub>5</sub> (6.0 mg/l average and 8.0 mg/l maximum), total suspended solids (TSS) (5.0 mg/l average and 7.5 mg/l maximum), total phosphorus (0.10 mg/l average), ammonia as nitrogen (2.0 mg/l average), and settleable solids (0.1 mg/l average). These parameters, except for TSS, shall be monitored once per calendar year and the data submitted with the next registration statement (for the 2019 reissuance). TSS data shall be monitored and submitted with the Part I A DMR.

~~15. There shall be no discharge or storm water discharge-related activities that cause or contribute to a violation of water quality standards or that adversely affect aquatic life. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.~~

16. Inactive and unstaffed facilities (including temporarily inactive sites).

a. A waiver of the process and storm water monitoring and routine inspections may be exercised by the board at a facility that is both inactive and unstaffed as long as the facility remains inactive and unstaffed. Such a facility is required to conduct an annual comprehensive site inspection in accordance with the requirements in Part II H 4. No DMR reports will be required to be submitted when a facility is approved as inactive and unstaffed.

b. An inactive and unstaffed sites waiver request shall be submitted to the board for approval and shall include the

name of the facility; the facility's VPDES general permit registration number; a contact person, phone number, and email address (if available); the reason for the request; and the date the facility became or will become inactive and unstaffed. The waiver request shall be signed and certified in accordance with Part III K. If this waiver is granted, a copy of the request and the board's written approval of the waiver shall be maintained with the SWPPP.

c. To reactivate the site the permittee shall notify the department within 30 days, and all process and storm water monitoring and routine inspections shall be resumed immediately. This notification must be submitted to the department, signed in accordance with Part III K, and retained on site at the facility covered by this permit in accordance with Part III B.

d. The board retains the authority to revoke this waiver when it is determined that the discharge causes, has a reasonable potential to cause, or contributes to a water quality standards violation.

17. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater or storm water associated with the industrial activity;

(2) A new owner has assumed responsibility for the facility (NOTE: A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement Form has been submitted);

(3) All discharges associated with this facility have been covered by an individual VPDES permit or an alternative VPDES permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility, a closure plan has been implemented

according to the O & M Manual, and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification: "I certify under penalty of law that all wastewater and storm water discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge nonmetallic mineral mining wastewater or storm water in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be submitted to the department and signed in accordance with Part III K.

Part II

Storm Water Management

A. Recording of results.

1. Additional information. In addition to any reporting requirements of Part III, for each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the discharge monitoring report the following information:

a. The date and duration (in hours) of the storm events sampled; and

b. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge.

2. Additional reporting. In addition to filing copies of discharge monitoring reports in accordance with Part III, permittees with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the board must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system at the same time.

A. Monitoring instructions.

1. Collection and analysis of samples. Sampling requirements shall be assessed on an outfall-by-outfall basis. Samples shall be collected and analyzed in accordance with the requirements of Part III A.

2. When and how to sample.

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a. In the case of snowmelt or a discharge from a storm water management structure (a series of settling lagoons), a representative sample shall be taken at the time the discharge occurs.

b. For all other types of storm water discharges, a minimum of one grab sample shall be taken resulting from a storm event that results in an actual discharge from the site (defined as a "measurable storm event"), providing the interval from the preceding measurable storm event is at least 72 hours. The 72-hour storm interval is waived if the permittee is able to document with the discharge monitoring report (DMR) that less than a 72-hour interval is representative for local storm events during the sampling period. The grab sample shall be taken during the first 30 minutes of the discharge. If it is not practicable to take the sample during the first 30 minutes, the sample may be taken during the first three hours of discharge provided that the permittee explains with the DMR why a grab sample during the first 30 minutes was impracticable.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that the permittee reasonably believes discharge substantially identical effluents, based on a consideration of similarity of industrial activity, significant materials, and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls. Also the permittee must list on the discharge monitoring report DMR of the outfall to be sampled all outfall locations that are represented by the discharge.

### C. Sampling waiver waivers.

1. Adverse conditions. When a permittee is unable to collect samples within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sampling in that period. When a permittee is unable to conduct storm water monitoring within the specified sampling period due to no measurable storm event or adverse weather conditions, documentation shall be submitted explaining the permittee's inability to conduct the storm water monitoring. The documentation must include at least four dates and the times the outfalls were viewed and sampling was attempted. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). Acceptable documentation includes but is not limited to National

Climatic Data Center Weather station data, local weather station data, facility rainfall logs, and other appropriate supporting data. All documentation shall also be maintained with the SWPPP.

2. Inactive and unstaffed facilities. When a permittee is unable to conduct the storm water sampling required at an inactive and unstaffed facility, the permittee may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The permittee must submit to the department, in lieu of monitoring data, a certification statement on the discharge monitoring report stating that the facility is inactive and unstaffed so that collecting a sample during a qualifying event is not possible. The requirement for a quarterly visual assessment does not apply at a facility that is inactive and unstaffed, as long as there are no industrial materials or activities exposed to stormwater.

D. Storm water pollution prevention plans (SWPPP). A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit. An SWPPP shall be developed and implemented for the facility. The plan shall include best management practices (BMPs) that are reasonable, economically practicable, and appropriate in light of current industry practices. The BMPs shall be selected, designed, installed, implemented, and maintained in accordance with good engineering practices to eliminate or reduce the pollutants in all storm water discharges from the facility. The SWPPP shall also include all control measures necessary for the storm water discharges to meet applicable water quality standards.

The storm water pollution prevention plan (SWPPP) requirements of this general permit may be fulfilled, in part, by incorporating by reference other plans or documents such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Division of Mineral Mining, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the federal Clean Water Act or best management practices (BMP) BMP programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of Part II H (contents of plan). If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur

or by another appropriate plan approving authority authorized under the Virginia Erosion and Sediment Control Regulations, 4VAC50-30. All plans incorporated by reference into the storm water pollution prevention plan SWPPP become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the storm water pollution prevention plan of Part II H, the permittee must develop the missing plan SWPPP elements and include them in the required storm water pollution prevention plan.

E. Deadlines for plan preparation and compliance.

1. Existing facilities and new facilities that begin operation on or before July 1, 2009, shall prepare and implement a plan incorporating the storm water pollution prevention plan requirements of this permit, if not included in an existing plan, as expeditiously as practicable, but not later than July 1, 2010. Existing storm water pollution prevention plans being implemented as of July 1, 2009 shall continue to be implemented until a new plan is developed and implemented.

2. Facilities that begin operation after July 1, 2009, shall prepare and implement a plan incorporating the requirements of this permit prior to submitting the registration statement.

1. Owners of existing facilities that were covered under the 2009 Nonmetallic Mineral Mining General Permit that are continuing coverage under this general permit shall update and implement any revisions to the SWPPP within 90 days of the board granting coverage under this permit.

2. Owners of new facilities, facilities previously covered by an expiring individual permit, and existing facilities not currently covered by a VPDES permit that elect to be covered under this general permit shall prepare and implement the SWPPP prior to submitting the registration statement.

3. Where the owner of an existing facility that is covered by this permit changes, the new owner of the facility shall update and implement any revisions to the SWPPP within 60 days of ownership change.

4. Upon a showing of good cause, the director may establish a later date in writing for the preparation and compliance with the SWPPP.

F. Signature and plan review.

1. The plan SWPPP shall be signed in accordance with Part III K (signatory requirements), and be retained on-site on site at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make the storm water pollution prevention plan SWPPP, annual site compliance inspection report, or other information available to the department upon request.

3. The director, or an authorized representative, may notify the permittee at any time that the plan does SWPPP, BMPs, or other components of the facility's storm water program do not meet one or more of the minimum requirements of this part. Such notification shall identify these specific provisions of the permit which that are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part and may include required modifications to the storm water program, additional monitoring requirements, and special reporting requirements. Within 60 days of such notification from the director, or as otherwise provided by the director, or an authorized representative, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes. Amendments to the plan may be reviewed by the department in the same manner as described in Part II F. Maintaining an updated SWPPP. The permittee shall review and amend the SWPPP as appropriate whenever:

1. There is construction or a change in design, operation, or maintenance that has a significant effect on the discharge or the potential for the discharge of pollutants to surface waters;

2. Routine inspections or compliance evaluations determine that there are deficiencies in the BMPs;

3. Inspections by local, state, or federal officials determine that modifications to the SWPPP are necessary;

4. There is a spill, leak, or other release at the facility; or

5. There is an unauthorized discharge from the facility.

SWPPP modifications shall be made within 30 calendar days after discovery, observation, or an event requiring an SWPPP modification. Implementation of new or modified BMPs (distinct from regular preventive maintenance of existing BMPs described in Part II H 3 b (preventative maintenance) shall be initiated before the next storm event if possible, but no later than 60 days after discovery, or as otherwise provided or approved by the director. The amount of time taken to modify a BMP or implement additional BMPs shall be documented in the SWPPP.

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If the SWPPP modification is based on a release or unauthorized discharge, include a description and date of the release, the circumstances leading to the release, actions taken in response to the release, and measures to prevent the recurrence of such releases. Unauthorized releases and discharges are subject to the reporting requirements of Part III G of this permit.

H. Contents of plan. The plan shall include, at a minimum, the following items:

~~1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan. Each plan shall identify the staff individuals by name or title who comprise the facility's storm water pollution prevention team. The pollution prevention team is responsible for assisting the facility or plant manager in developing, implementing, maintaining, revising, and ensuring compliance with the facility's SWPPP. Specific responsibilities of each staff individual on the team shall be identified and listed.~~

~~2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum: Summary of potential pollutant sources. The plan shall identify where industrial materials or activities at the facility are exposed to storm water. The description shall include:~~

~~a. Drainage. Site map. The site map shall document:~~

~~(1) A site map indicating an An outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water run-off, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle ~~and equipment maintenance and/or~~ or equipment degreasing, cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas and~~

storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

~~(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, locations of storm water conveyances, including ditches, pipes, swales, and inlets, and the directions of storm water flow and an identification of the types of pollutants ~~which~~ that are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant ~~leaks or spills~~ or leaks of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.~~

~~b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on site storage or disposal; materials management practices employed to minimize contact of materials with storm water run-off between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water run-off; and a description of any treatment the storm water receives. A list of the industrial materials or activities, including but not limited to material handling equipment or activities, industrial machinery, raw materials, industrial production and processes, intermediate products, byproducts, final products, and waste products. Material handling activities include but are not limited to the storage, loading and unloading, transportation, disposal, or conveyance of any raw material, intermediate product, final product, or waste product.~~

~~c. Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.~~

~~d. Sampling data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of~~

sampling data collected during the term of this permit. storm water sampling data taken at the facility. The summary shall include, at a minimum, any data collected during the previous three years.

e. Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

3. Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. Storm water controls. BMPs shall be implemented for all areas identified in Part II H 2 b (inventory of exposed materials) to prevent or control pollutants in storm water discharges from the facility. All reasonable steps shall be taken to control or address the quality of discharges from the site that may not originate at the facility. The SWPPP shall describe the type, location, and implementation of all BMPs for each area where industrial materials or activities are exposed to storm water. The description of storm water management controls BMPs shall also address the following minimum components, including a schedule for implementing such controls:

a. Good housekeeping. Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The plan shall describe procedures performed to minimize contact of materials with storm water run-off. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, vehicle fueling and maintenance areas, and loading/unloading areas.

b. Preventive maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility regular inspection, testing, maintenance, and repairing of all industrial equipment and systems to uncover conditions that could cause avoid breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. that could result in leaks, spills, and other releases. All BMPs identified in the SWPPP shall be maintained in effective

operating condition. The SWPPP shall include a description of procedures and a regular schedule for preventive maintenance and observation of all BMPs and shall include a description of the back-up practices that are in place should a run-off event occur while a BMP is off line or not operating effectively. The effectiveness of nonstructural BMPs shall also be maintained by appropriate means (e.g., spill response supplies available and personnel trained). If site inspections required by Part II H 3 d (routine facility inspections) or Part II H 4 (comprehensive site compliance evaluation) identify BMPs that are not operating effectively, repairs or maintenance shall be performed before the next anticipated storm event. If maintenance prior to the next anticipated storm event is not possible, maintenance shall be scheduled and accomplished as soon as practicable. Documentation shall be kept with the SWPPP of maintenance and repairs of BMPs, including the date(s) of regular maintenance, date(s) of discovery of areas in need of repair or replacement, date(s) for repairs, date(s) that the BMP(s) returned to full function, and the justification for an extended maintenance or repair schedules. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the pollution prevention plan.

c. Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel. The plan shall describe the procedures that will be followed for preventing and responding to spills and leaks, including barriers between material storage and traffic areas, secondary containment provisions, procedures for material storage and handling, response procedures for notification of appropriate facility personnel, emergency agencies, and regulatory agencies and procedures for stopping, containing, and cleaning up spills. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable RCRA regulations at 40 CFR Part 264 and 40 CFR Part 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals shall be a member of the pollution prevention team. Contact information for

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individuals and agencies that must be notified in the event of a spill shall be included in the SWPPP and in other locations where it will be readily available.

d. ~~Inspections.~~ Routine facility inspections.

(1) Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall be identified to inspect material storage and handling areas, including but not limited to areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, ~~vehicle and equipment maintenance areas, cleaning and fueling areas, material handling vehicles and designated~~ material handling vehicles, equipment, and processing areas ~~of the facility~~; to inspect vehicle and equipment maintenance areas and cleaning and fueling areas; to inspect best management practices; and to conduct visual examinations of storm water associated with industrial activity.

(2) The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of storm water discharge diversions, conveyance systems, sediment control and collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated storm water.

(3) Visual examinations of storm water discharges associated with industrial activity shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution.

(4) Site inspection, best management practices inspection and visual examination results must be documented and maintained on-site with the ~~facility pollution prevention plan~~ SWPPP. Documentation for visual examinations of storm water shall include the examination date and time, examination personnel, outfall location, the nature of the discharge, visual quality of the storm water discharge and probable sources of any observed storm water contamination. Part II B regarding representative discharges and Part II C regarding sampling waivers shall apply to the taking of samples for visual examination except that (i) the documentation required by these sections shall be retained with the ~~storm water pollution prevention plan~~ SWPPP visual examination records rather than submitted to the department, and (ii) substitute sampling for waived sampling is not required if the proper documentation is maintained.

(5) A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

e. Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective best management practices must be recorded and the date of their corrective action noted.

g. Sediment and erosion control. The plan shall identify areas ~~which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, or stabilization measures to be used to limit erosion.~~ Permittees must indicate the location and design for proposed best management practices to be implemented prior to land disturbance activities. For sites already disturbed but without best management practices, the permittee must indicate the location and design of best management practices that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks. that, due to topography, land disturbance (e.g., construction, landscaping, site grading), or other factors, have a potential for soil erosion. The permittee shall identify and implement structural, vegetative, or stabilization BMPs to prevent or control on-site and off-site erosion and sedimentation.

h. Management of run-off. The plan shall ~~contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or sources of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water run-off in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see~~

~~Part II H 2 (description of potential pollutant sources) of this permit shall be considered when determining reasonable and appropriate measures. describe the storm water run-off management practices (i.e., permanent structural BMPs) for the facility. These types of BMPs are typically used to divert, infiltrate, reuse, or otherwise reduce pollutants in storm water discharges from the site. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.~~

4. Comprehensive site compliance evaluation. Facility personnel who are familiar with the mining activity, the ~~best management practices and the storm water pollution prevention plan~~ BMPs, and the SWPPP shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less frequently than once a year ~~for active sites. When annual compliance evaluations are shown in the plan to be impractical for inactive mining sites due to remote location and inaccessibility, site evaluations must be conducted at least once every three years. Evaluations shall include all areas where industrial materials or activities are exposed to storm water as identified in Part II H 2 b (inventory exposed materials).~~ Such evaluations shall include the following:

a. Areas contributing to a storm water discharge associated with industrial activity, including material storage and handling areas; ~~liquid storage tanks; hoppers or silos; vehicle and equipment maintenance, cleaning, and fueling areas; material handling vehicles; equipment and processing areas; and areas where aggregate is stockpiled outdoors (e.g., areas where aggregate is stockpiled outdoors, liquid storage tanks, hoppers or silos, material handling vehicles, equipment, and processing areas);~~ vehicle and equipment maintenance areas and cleaning and fueling areas; off-site tracking of industrial or waste materials or sediment where vehicles enter or exit the site; tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas; and residue or trash shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made. A review of training performed, routine inspections completed, visual

examinations completed, maintenance performed, and effective operation of BMPs, shall be made.

b. Based on the results of the evaluation, the ~~description summary~~ of potential pollutant sources identified in the plan in accordance with Part II H 2 (~~description summary~~ of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 (~~measures and controls~~) (storm water controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the dates of the inspection, ~~major~~ observations relating to the implementation of the ~~storm water pollution prevention plan~~ SWPPP, including the elements stipulated in Part II H 4 a, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as required in Part III B (records). The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the ~~storm water pollution prevention plan~~ SWPPP and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.

d. Where compliance evaluation schedules overlap with inspections required under Part II H 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.

### Part III

#### Conditions Applicable To All VPDES Permits

##### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.
4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

##### B. Records.

1. Records of monitoring information shall include:

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- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

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

## C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent

information as may be necessary to determine the effect of the wastes from ~~his~~ its discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

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

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee

shall promptly notify (see NOTE in Part III I), in no case later than 24 hours, the department ~~by telephone~~ after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

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

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

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
  - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
- a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
  - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by fax~~, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the

Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

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

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

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

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

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to

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assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

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

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

c. The written authorization is submitted to the department.

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

~~The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the federal Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.~~

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~180~~ 210 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

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

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances)

which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

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

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

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

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

normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

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

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

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

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

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

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

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

4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours and whenever the facility is discharging. Nothing contained

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herein shall make an inspection unreasonable during an emergency.

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

Y. Transfer of permits. ~~Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the federal Clean Water Act. 2. As an alternative to transfers under Part III Y 1,~~ Coverage under this permit may be automatically transferred to a new permittee if:

a. 1. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property unless permission for a later date has been granted by the department;

b. 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. 3. The board does not notify the existing permittee and the proposed new permittee of its intent to ~~modify or revoke and reissue~~ deny the permittee coverage under the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2-b.

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

**NOTICE:** The 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 of a form with a hyperlink to access it. 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.

## FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division Permit Application Fee (rev. 1/08)~~

~~Local Government Ordinance Form (eff. 8/93).~~

[Department of Environmental Quality Water Division Permit Application Fee \(rev. 5/13\).](#)

## [Virginia Pollutant Discharge Elimination System Change of Ownership Agreement Form \(undated\)](#)

Virginia Pollutant Discharge Elimination System General Permit Registration Statement - Nonmetallic Mineral Mining.

Virginia Pollutant Discharge Elimination System General Permit Notice of Termination for Nonmetallic Mineral Mining.

VA.R. Doc. No. R13-3381; Filed June 24, 2013, 10:44 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1, and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03; and (iv) conducts at least one public hearing on the proposed general permit.

**Title of Regulation:** **9VAC25-860. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants (amending 9VAC25-860-10, 9VAC25-860-40, 9VAC25-860-50, 9VAC25-860-60, 9VAC25-860-70; adding 9VAC25-860-15).**

**Statutory Authority:** § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act.

**Effective Date:** December 24, 2013.

**Agency Contact:** Elleanore M. Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, or email [elleanore.daub@deq.virginia.gov](mailto:elleanore.daub@deq.virginia.gov).

### **Summary:**

*This regulatory action reissues the existing Virginia Pollutant Discharge Elimination System (VPDES) general permit that expires on December 23, 2013. The general permit contains limitations and monitoring requirements for point source discharge of treated wastewaters from potable water treatment plants to surface waters. This general permit regulation is being reissued so that these plants may continue to discharge. Since publication of the proposed amendments, only minor clarification changes have been made.*

### **9VAC25-860-10. Definitions.**

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law and

9VAC25-31, the VPDES Permit Regulation, unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Department" or "DEQ" means the Virginia Department of Environmental Quality.

"Membrane treatment" means a pressure driven process using synthetic materials to separate constituents from water. Membranes are used for dissolved solids or suspended solids removal. Membrane treatment for dissolved solids removal includes reverse osmosis and nanofiltration. Membrane treatment for suspended solids removal includes ultrafiltration and microfiltration.

"Microfiltration" means a method of membrane treatment designed to remove particles [ ~~up~~ down ] to 0.1 µm in size. The treatment removes cysts, bacteria, and most (but not all) particulates.

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) (i) owned or operated by a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act (CWA) that discharges to surface waters of the state; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a publicly owned treatment works (POTW).

"Nanofiltration" or "low-pressure reverse osmosis" or "membrane softening" means a method of membrane treatment designed to remove multivalent ions (softening) and removes contaminants [ ~~up~~ down ] to 1 nm (nanometer = 0.001 µm) in size.

"Potable water treatment plants plant" means establishments primarily an establishment engaged in distributing water for sale producing water for domestic, commercial, and or industrial use as designated by Standard Industrial Classified (SIC) Code 4941 – Water Supply (Office of Management and Budget (OMB) SIC Manual, 1987), or others as approved by the board.

"Reverse osmosis" means a method of water membrane treatment that involves the application of pressure to a concentrated solution that causes the passage of a liquid from the concentrated solution to a weaker solution across a semi-permeable membrane. The membrane allows the passage of the solvent (water) but not the dissolved solids (solute) designed to remove salts and low-molecular weight solutes and remove all contaminants [ ~~up~~ down ] to 0.0001 µm (microns) in size. Reverse osmosis methods apply pressure in

excess of osmotic pressure to force water through a semi-permeable membrane from a region of high salt concentration to a region of lower salt concentration.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

"Ultrafiltration" means a method of membrane treatment designed to remove particles [ ~~up~~ down ] to 0.01 µm in size. The treatment removes cysts, bacteria, and viruses as well as suspended solids.

**9VAC25-860-15. Applicability of incorporated references based on the dates that they became effective.**

Except as noted, when a regulation of the U.S. Environmental Protection Agency set forth in Title 40 of the Code of Federal Regulations (CFR) is referenced and incorporated herein, that regulation shall be as it exists and has been published as of July 1, 2012.

**9VAC25-860-40. Effective date of the permit.**

This general VPDES permit will become effective on ~~December 24, 2008~~ December 24, 2013, and will expire on ~~June 30, 2018~~. This general permit will expire five years after the effective date. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-860-50 and the receipt of this general permit.

**9VAC25-860-50. Authorization to discharge.**

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9VAC25-860-60, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-860-70, and provided that:

1. The owner submits a registration statement in accordance with 9VAC25-860-60 and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-860-70; and
4. The board has not notified the owner that the discharge is not eligible for coverage in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner has not been is required to obtain an individual permit according to in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;

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2. The proposed owner is proposing to discharge is not to state waters specifically named in other board regulations or policies that prohibit such discharges; and
3. The owner demonstrates that there is not a reasonable potential for toxicity by performing a toxicity screening, the results of which are to be submitted with the registration statement. The toxicity screening shall consist of a minimum of four sets (set = vertebrate and invertebrate) of acute or chronic tests that reflect the characteristics of the current effluent using the following tests and organisms:

For an intermittent or batch discharger	48 hour static acute toxicity tests
Freshwater organisms	Pimephales promelas or Oncorhynchus mykiss (for cold water) (vertebrates) Ceriodaphnia dubia (invertebrate)
Saltwater organisms	Cyprinodon variegates (vertebrate) Americamysis bahia (invertebrate)
For a continuous discharger	
Freshwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Pimephales promelas (vertebrate) 3-Brood Chronic Static Renewal Survival and Reproduction Test with Ceriodaphnia dubia (invertebrate)
Saltwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Cyprinodon variegatus (vertebrate) 7-Day Chronic Static Renewal Survival, Growth and Fecundity Test with Americamysis bahia (invertebrate)

Freshwater organisms are used where the salinity of the receiving water is less than 1.0%. Where the salinity of the receiving water is greater than 1.0% but less than 5.0% either freshwater or saltwater organisms may be

used. Saltwater organisms are used where the salinity is greater than 5.0%.

There shall be a minimum of 30 days between sets of tests, and test procedures shall follow 40 CFR Part 136, which references the EPA guidance manuals for whole effluent toxicity testing. The data will be evaluated statistically to see if there is reasonable potential for toxicity; if such a potential exists, the facility must either continue operation under its existing individual VPDES permit, or apply for an individual VPDES permit.

Facilities that are subject to the requirements of 9VAC25-820-70 Part I G 1 (General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia Requirement to Register), are excluded from coverage under this general permit.

3. The discharge violates or would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;

4. The discharge is not consistent with the assumptions and requirements of an approved TMDL;

5. The facility is subject to the requirements of 9VAC25-820-70 Part I G 1 (General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia - Requirement to Register); and

6. An owner applying for coverage under this general permit submits the results of representative whole effluent toxicity testing of the discharge, and the results demonstrate that there is a reasonable potential for toxicity.

B. Receipt of C. Compliance with this general permit constitutes compliance with the federal Clean Water Act and the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

D. Continuation of permit coverage.

1. Any owner that was authorized to discharge under the potable water treatment plant general permit issued in 2008 and that submits a complete registration statement on or before December 24, 2013, is authorized to continue to discharge under the terms of the 2008 general permit until such time as the board either:

- a. Issues coverage to the owner under this general permit; or
- b. Notifies the owner that the discharge is not eligible for coverage under this general permit.

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the

conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon the 2008 general permit;
- b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by administratively continued coverage under the terms of the 2008 general permit or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

**9VAC25-860-60. Registration statement.**

The owner/operator shall file a complete VPDES general permit registration statement for potable water treatment plants. Any owner/operator proposing a new discharge shall file the registration statement at least 60 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing potable water treatment plants covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing potable water treatment plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

A. Deadlines for submitting registration statement. The owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this section, which shall serve as a notice of intent for coverage under the general VPDES permit for potable water treatment plants.

- 1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least 60 days prior to the date planned for commencement of the new discharge.
- 2. Existing facilities.
  - a. Any owner covered by an individual VPDES permit who is proposing to be covered by this general permit shall submit a complete registration statement at least 270 days prior to the expiration date of the individual VPDES permit.
  - b. Any owner that was authorized to discharge under the general VPDES permit that became effective on December 24, 2008, and who intends to continue coverage under this general permit shall submit a complete registration statement to the board on or before October 24, 2013.

c. Any owner of a potable water treatment plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement.

B. Late registration statements. Registration statements for existing owners covered under subdivision A 2 b of this section will be accepted after December 24, 2013, but authorization to discharge will not be retroactive. Owners described in subdivision A 2 b of this section that submit registration statements after October 24, 2013, are authorized to discharge under the provisions of 9VAC25-860-50 D if a complete registration statement is submitted on or before December 24, 2013.

C. The required registration statement shall contain the following information:

- 1. Facility name and ~~location~~ street address (~~street no., route no., or other identifier~~), owner name, mailing address, telephone number, and the email address (if available);
- 2. Facility owner's name mailing address, telephone number and the email address;
- 3. Facility operator 2. Operator or other contact name and, mailing address and, telephone number, and email address (if available);
- 4. 3. The nature of the business;
- 5. 4. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility location extending to at least one mile beyond the property boundary and the location of the discharge point(s);
- 6. 5. The receiving waters of the discharge;
- 7. 6. The outfall number, the daily maximum actual or projected wastewater flow rate (~~typical~~ (millions of gallons per day or gallons per day), typical volume, duration of discharges, and number of discharges per day/week) and the number of outfalls frequency of discharge;
- 8. If the type of water treatment plant is conventional, reverse osmosis, or a combination of both 7. The type of water treatment (e.g. conventional, microfiltration, ultrafiltration, nanofiltration, reverse osmosis, or a combination of these) and, if applicable, a description of any treatment type changes since the previous registration statement was submitted;
- 9. If this facility currently has an 8. The number of any existing VPDES permit, and if so, the permit number that authorizes discharges from the potable water treatment plant;
- 10. 9. If the existing VPDES permit contains a ground water groundwater monitoring plan requirement and, if so, submit, a copy of the DEQ approved groundwater monitoring board-approved plan should be submitted;
- 11. Indicate if the 10. Information regarding the lining of any settling basins; or lagoons, or both whether such units

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are earthen lined, and if so, whether the ~~units~~ linings have a permeability of no greater than  $10^{-6}$  cm/sec;

~~12.~~ 11. The results of ~~the~~ any whole effluent toxicity evaluation required by the 2008 potable water treatment plant general permit regulation, 9VAC25-860-50 A 3, or the current individual permit, if not previously submitted to the department;

~~13.~~ 12. A schematic drawing showing the source(s) of water used on the property and the conceptual design of the methods of treatment and disposal of wastewater;

~~14.~~ 13. Information on chemicals used in the treatment, to include (i) a description of ~~chemical~~ chemicals, and (ii) a proposed or actual schedule and quantity of chemical usage and, if applicable, (iii) a description of any chemical or chemical usage changes since the previous registration statement was submitted;

~~15.~~ 14. A description of how solids and residue from ~~the~~ any settling basins or lagoons are disposed;

15. Whether the facility will discharge to a MS4. If so, the name of the MS4 owner must be provided. If the owner of the potable water treatment plant is not the owner of the MS4, the facility owner shall notify the MS4 owner of the existence of the discharge and include a copy of the notification with the registration statement. The notification shall include the following information: the name of the facility, a contact person and phone number, the location of the discharge, the nature of the discharge, and the owner's VPDES general permit number;

16. If a new potable water treatment plant owner proposes to discharge within five miles upstream of another public water supply system's intake, the new potable water treatment plant owner shall notify the public water supply system's owner and include a copy of the notification with the registration statement; and

~~16.~~ 17. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to

assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

D. The registration statement shall be signed in accordance with 9VAC25-31-110.

## 9VAC25-860-70. General permit.

Any owner whose registration statement is accepted by the board will receive coverage under the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-31.

General Permit No.: VAG64

Effective Date: ~~December 24, 2008~~ December 24, 2013

Expiration Date: ~~December 23, 2013~~ June 30, 2018

### GENERAL PERMIT FOR POTABLE WATER TREATMENT PLANTS

#### AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, ~~owners/operators~~ owners of potable water treatment plants are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations ~~or policies~~ that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable To All VPDES Permits, as set forth herein.

#### PART I

##### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

###### 1. Facilities other than reverse osmosis or nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater ~~originating from a potable water treatment plant~~ from outfall(s):

Such discharges shall be limited and monitored ~~by the permittee~~ as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency <sup>(1)</sup>	Sample Type
Flow (MGD)	NL	NA	NL	1/ <del>3</del> <u>Month</u> <del>Months</del> <sup>(4)</sup>	Estimate

pH (SU) <sup>(2)</sup>	NA	6.0 <sup>(4)</sup>	<del>9.0</del> <sup>(4)</sup>	<u>1/3 Month Months</u> <sup>(4)</sup>	Grab
Total Suspended Solids (mg/l)	30	NA	60	<u>1/3 Month Months</u> <sup>(4)</sup>	<del>5G/8HC</del> <u>Composite</u> <sup>(4)(3)</sup>
Total Residual Chlorine <sup>(4)(4)</sup> (mg/l)	0.011	NA	0.011	<u>1/3 Month Months</u> <sup>(4)</sup>	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup> [ Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

<sup>(2)</sup> Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the ~~maximum and minimum~~ and maximum effluent limitations.

<sup>(3)(4)</sup> ~~5G/8HC Eight hour composite~~ Consisting of Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals until the discharge ceases, or until a minimum of five grab samples have been collected. Samples shall be comprised of wastewater discharged during all phases of wastewater generation, including back wash, etc. For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.

<sup>(4)(4)</sup> Total residual chlorine limit shall only be applicable to facilities ~~discharging to surface waters~~ that use chlorine in the treatment process.

<sup>(4)</sup> ~~Monitoring frequency shall be reduced to 1/quarter upon written notification from the DEQ regional office. [ Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. ] Reference special condition no. 4.~~

There shall be no discharge of floating solids or visible foam in other than trace amounts.

## PART I

### A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

#### 2. Reverse osmosis and nanofiltration plants.

During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating ~~from a reverse osmosis potable water treatment plant~~ from outfall(s): \_\_\_\_\_

Such discharges shall be limited and monitored ~~by the permittee~~ as specified below:

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency <sup>(1)</sup>	Sample Type
Flow (MGD)	NL	NA	NL	1/ Month <sup>(3)</sup>	Estimate
pH (SU) <sup>(2)</sup>	NA	6.0 <sup>(4)</sup>	9.0 <sup>(4)</sup>	1/ Month <sup>(3)</sup>	Grab
Total Dissolved Solids (mg/l)	NA	NA	NL	1/ Month <sup>(3)</sup>	<del>5G/8HC</del> <u>Composite</u> <sup>(4)(3)</sup>
Dissolved Oxygen (mg/l) <sup>(4)</sup>	NA	4.0 <sup>(4)</sup>	NA	1/ Month <sup>(3)</sup>	Grab

NL - No limitation, monitoring requirement only

NA - Not applicable

<sup>(1)</sup> [ Monitoring frequencies shall be reduced to 1/quarter upon written notification from the DEQ regional office. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

<sup>(2)</sup> Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH ~~and dissolved oxygen~~ in waters

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receiving the discharge, those standards shall be the ~~maximum and~~ minimum and maximum effluent limitations.

~~[(2) (3) 5G/8HC Eight hour composite Consisting of Composite - For continuous discharges, five grab samples collected at hourly intervals. For batch discharges, five grab samples taken at evenly placed intervals until the discharge ceases or until a minimum of five grab samples have been collected. Samples shall be comprised of wastewater discharged during all phases of wastewater generation, including back wash, etc. For continuous or batch discharges, the first grab shall occur within 15 minutes of commencement of the discharge.~~

~~[(4) Monitoring frequencies shall be reduced to 1/quarter upon written notification from the DEQ regional office. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October and January. ] Reference special condition no. 4.~~

~~[(4) Where the Water Quality Standards (9VAC25-260) establish alternate standards for dissolved oxygen in waters receiving the discharge, those standards shall be the minimum effluent limitations. ]~~

~~There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

## B. Special conditions.

1. Inspection of the effluent, and maintenance of the wastewater treatment facility, shall be performed daily when discharging. Documentation of the inspection and maintenance shall be recorded in an operational log. This operational log shall be made available for review by the department personnel upon request.

2. No domestic sewage discharges ~~to surface waters~~ are permitted under this general permit.

3. ~~Adding chemicals to the water or waste that may be discharged, No chemicals, other than those listed on the owner's accepted registration statement, is prohibited are allowed.~~ Prior approval shall be obtained from ~~Department of Environmental Quality~~ the board before any changes are made to the chemical(s), in order to assure protection of water quality and beneficial uses of the waters receiving the discharge.

4. ~~Monitoring frequency shall be 1/month unless a written request is sent to the appropriate regional office to reduce monitoring to 1/quarter. Upon written notification from DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be subject of an active enforcement action, monitoring frequency shall revert to 1/month upon issuance of the letter of notice of initiation of the enforcement action, and remain in effect until the permit's expiration date. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

5. ~~The permittee shall comply with the following solids management plan that includes:~~

- ~~a. A prohibition on the discharge of floating solids or visible foam in other than trace amounts.~~
- ~~b. A requirement to clean settling basins frequently in order to achieve effective treatment.~~
- ~~e. A requirement that all solids shall be handled, stored and disposed of so as to prevent a discharge to state waters.~~

6. If the discharge is into a municipal separate storm sewer, the permittee is required to notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit, and provide the following information: the name of the facility, a contact person and phone number, and the location of the discharge.

5. Owners of facilities that are a source of the specified pollutant of concern to waters where an approved total maximum daily load (TMDL) has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

7. 6. The permittee shall notify the department as soon as he knows or has reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) One hundred micrograms per liter;
- (2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;
- (3) Five times the maximum concentration value reported for that pollutant in the ~~permit application~~ general permit registration statement; or
- (4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

- (1) Five hundred micrograms per liter;
- (2) One milligram per liter for antimony;
- (3) Ten times the maximum concentration value reported for that pollutant in the ~~permit application~~ general permit registration statement; or
- (4) The level established by the board.

~~8. 7.~~ If a ~~DEQ approved ground water~~ board-approved groundwater monitoring plan was submitted with the ~~registrations registration~~ statement, the permittee shall continue ~~sampling and reporting to sample and report~~ in accordance with the plan. The approved plan shall be an enforceable part of this permit. The board or the owner, with board approval, may evaluate the groundwater monitoring data and demonstrate that revisions to or the cessation of the groundwater monitoring are appropriate.

~~9. 8.~~ Compliance reporting under Part I A.

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
Chlorine	0.10 mg/l
TSS	1.0 mg/l

b. Reporting.

(1) Monthly average. Compliance with the monthly average limitations ~~and/or~~ and reporting requirements for the parameters listed in subdivision ~~9 8~~ a shall be determined as follows: all concentration data below the QL listed above shall be treated as zero. All concentration data equal to or above the QL listed in subdivision ~~9 8~~ a shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

(2) Daily maximum. Compliance with the daily maximum limitations ~~and/or~~ and reporting requirements for the parameters listed in subdivision ~~9 8~~ a above shall be determined as follows: all concentration data below the QL listed in subdivision ~~9 8~~ a above shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision ~~9 8~~ a. Otherwise, the numerical value shall be reported.

d. The permittee shall report at least the same number of significant digits as the permit limit for a given

parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

~~10. 9.~~ Operation and Maintenance Manual Requirement.

a. ~~The~~ Within 90 days after the date of coverage under this general permit, the permittee shall develop an Operation and Maintenance (O & M) Manual for the treatment works. The O & M manual shall be reviewed within 90 days of changes to the treatment system. The O & M manual shall be certified in accordance with Part II K of this permit. The O & M manual shall be made available for review by department personnel upon request.

~~b.~~ This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. ~~The manual shall be submitted to the DEQ regional office for approval within 90 days of the date of coverage under the general permit or completion of construction. Within 30 days of a request by the department, the current O & M Manual shall be submitted to the board for review and approval.~~ The permittee shall operate the treatment works in accordance with the ~~approved~~ O & M Manual. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

c. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- (1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- (2) Discussion of best management practices, if applicable;
- (3) Treatment system design, treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and record keeping;
- (4) A plan for the management and/or disposal of waste solids and residues, which includes a requirement to clean settling basins and lagoons (if present at the facility) in order to achieve effective treatment and a requirement that all solids shall be handled, stored, and disposed of so as to prevent a discharge to state waters; and
- (5) Procedures for measuring and recording the duration and volume of treated wastewater discharged.

~~Any changes in the practices and procedures followed by the permittee shall be documented and submitted for staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part~~

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of the permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

b. If an approved O & M Manual is already on file with DEQ, the permittee shall review the existing Operations and Maintenance (O & M) Manual and notify the DEQ regional office in writing within 90 days of the date of coverage under the general permit whether it is still accurate and complete. If the O & M Manual is no longer accurate and complete, a revised O & M Manual shall be submitted for approval to the DEQ regional office within 90 days of the date of coverage under the general permit or with the above required notification. The permittee will maintain an accurate, approved operation and maintenance manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of the permit. The permittee shall operate the treatment works accordance with the approved O&M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- (1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- (2) Discussion of best management practices, if applicable;
- (3) Treatment works design, treatment works operation, routine preventative maintenance of units within the treatment system, critical spare parts inventory and record keeping;
- (4) A plan for the management and/or disposal of waste solids and residues; and
- (5) Procedures for measuring and recording the duration and volume of treated wastewater discharged.

Any changes in the practices and procedures followed by the permittee shall be documented and submitted for staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of the permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

10. Owners with a daily maximum flow rate greater than or equal to 50,000 gallons per day that have not conducted whole effluent toxicity (WET) testing to demonstrate there is no reasonable potential for toxicity from their discharge shall conduct WET testing as described in subdivisions a through e of this subsection. Owners with changes in treatment technology or chemical usage that change the characteristics of the discharge and with a daily maximum flow rate greater than or equal to 50,000 gallons per day shall conduct WET testing as described in subdivisions a through e of this subsection.

a. The WET testing shall consist of a minimum of four sets (set = vertebrate and invertebrate) of acute or chronic tests that reflect the current characteristics of the

treatment plant effluent using the following tests and organisms:

For an intermittent or batch discharger	48 hour static acute toxicity tests
Freshwater organisms	Pimephales promelas or Oncorhynchus mykiss (for cold water) (vertebrates) Ceriodaphnia dubia (invertebrate)
Saltwater organisms	Cyprinodon variegatus (vertebrate) Americamysis bahia (invertebrate)
For continuous discharger	
Freshwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Pimephales promelas (vertebrate) 3-Brood Chronic Static Renewal Survival and Reproduction Test with Ceriodaphnia dubia (invertebrate)
Saltwater	7-Day Chronic Static Renewal Larval Survival and Growth Test with Cyprinodon variegatus (vertebrate) 7-Day Chronic Static Renewal Survival, Growth and Fecundity Test with Americamysis bahia (invertebrate)

Freshwater organisms are used where the salinity of the receiving water is less than [ ~~1.0%~~ 1.0‰ ] (parts per thousand). Where the salinity of the receiving water is greater than [ ~~1.0%~~ or equal to 1.0‰ ] but less than [ ~~5.0%~~ 5.0‰ ] either freshwater or saltwater organisms may be used. Saltwater organisms are used where the salinity is greater than [ ~~5.0%~~ or equal to 5.0‰ ]. There shall be a minimum of 30 days between sets of tests, and test procedures shall follow Title 40 of the Code of Federal Regulations, Part 136 (40 CFR Part 136), which references the EPA guidance manuals for WET testing.

b. This testing shall be completed, at a minimum, during the first year of coverage under the general permit or within one year of commencing discharge.

c. The department will evaluate all representative data statistically to see if there is reasonable potential for toxicity in the facility discharge. If such reasonable potential exists and cannot be eliminated, the owner will be notified that he must apply for an individual VPDES permit at next reissuance and a WET limit will be included in that individual permit. If the potential cause of the toxicity is eliminated during the five year term of this general permit, the owner may conduct additional WET testing to demonstrate that there is no longer reasonable potential for toxicity and an individual permit will not be required at the next reissuance.

d. If the department determines that no reasonable potential for toxicity exists in the facility discharge, no further WET testing is required unless changes in treatment technology or chemical usage are made at the plant that change the characteristics of the discharge. If there have been changes to the effluent characteristics, then four sets of WET testing, either acute or chronic tests as applicable, must be performed to recharacterize the discharge.

e. Any WET testing data will be submitted with the next required discharge monitoring report.

11. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.

12. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer discharges of process wastewater from the potable water treatment plant;

(2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted;

(3) All discharges associated with this facility have been covered by an individual VPDES permit or a VPDES general permit; or

(4) Termination of coverage is being requested for another reason, provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES general permit registration number for the facility; and

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility and there are no longer discharges from the facility;

(c) A statement indicating that all discharges have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification: "I certify under penalty of law that all wastewater discharges from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or a VPDES general permit, or that I am no longer the owner of the facility, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge wastewater in accordance with the general permit, and that discharging pollutants to surface waters is unlawful where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be submitted to the department and signed in accordance with Part II K.

13. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other federal, state, or local statute, ordinance, or regulation.

## PART II

### CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

#### A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

#### B. Records.

1. Records of monitoring information shall include:

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- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

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

## C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a discharge monitoring report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may

be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

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

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

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

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee

shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse [ ~~affects~~ effects ] on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

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

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

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset that causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

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

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

NOTE: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the department's regional office. Reports may be made by telephone ~~or by fax,~~ FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx>. For reports outside normal working hours, ~~leave~~ a message may be left and this shall fulfill the immediate reporting requirement. For

emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

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

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

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

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

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

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

K. Signatory requirements.

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

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer ~~mean~~ means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to

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assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit ~~application~~ registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

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

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

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

a. The authorization is made in writing by a person described in Part II K 1;

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

c. The written authorization is submitted to the department.

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

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

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~90~~ 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

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

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper

operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

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

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

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and U 3.

#### 2. Notice.

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

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

#### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

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

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

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.

#### V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

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

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

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

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

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

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

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

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

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

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

Y. Transfer of permits.

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

~~2. As an alternative to transfers under Part II Y 1, this Coverage under this permit may be automatically transferred to a new permittee if:~~

~~a. 1. The current permittee notifies the department [ at least within ] 30 days [ in advance ] of the [ proposed ] transfer of the title to the facility or property [ unless permission for a later date has been granted by the board ];~~

~~b. 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and~~

~~e. 3. The board does not notify the existing permittee and the proposed new permittee of its intent to [ modify or revoke and reissue deny the new permittee coverage under ] the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.~~

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

VA.R. Doc. No. R12-3134; Filed June 24, 2013, 8:50 a.m.

Public Comment Deadline: September 13, 2013.

Agency Contact: Michael Royster, M.D., Director, Office of Minority Health and Health Equity, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7435, FAX (804) 864-7440, or email michael.royster@vdh.virginia.gov.

Basis: Section 54.1-3011.1 of the Code of Virginia authorizes the collection of up to \$1.00 in licensure and license renewal fees for every practical nurse and registered nurse to be deposited in a Nursing Scholarship and Loan Repayment Fund.

Section 54.1-3011.2 of the Code of Virginia establishes the Nursing Scholarship and Loan Repayment Fund for the purpose of financing scholarships for part-time and full-time students enrolled in or accepted for enrollment by nursing programs and gives the Board of Health authority to administer and award such funds.

Section 32.1-122.6:01 of the Code of Virginia authorizes the Board of Health to award scholarships available through the Nursing Scholarship and Loan Repayment Fund.

Sections 23-35.9 through 23-35.13 of the Code of Virginia further define some of the procedures for administering the scholarships, including the composition of the Advisory Committee to the State Board of Health, the basis for awards, the requirement for a written contract and contract provisions, provisions for renewal of awards, and definition of how payments should be made.

Purpose: The Virginia Department of Health administers the Nursing Scholarship Program, which provides annual nursing scholarships for students enrolled part-time or full-time in undergraduate and graduate nursing programs. Selected recipients agree to promptly begin and thereafter engage continuously in nursing practice in the Commonwealth in a region with a critical shortage of nurses for a duration of time based on the total amount of scholarship awarded.

Regulations for other similar scholarship programs are more comprehensive and include sections governing the administration of the program. A more comprehensive set of regulations for the administration of this program is essential for improving the efficacy of the program.

The intent of this program is to address the shortage of trained medical professionals in the Commonwealth. The primary advantage to improving the administration of this program would be to increase the availability of adequate, qualified medical providers in Virginia.

Substance: Amendments add a section pertaining to the definitions of terms used in the regulations and clarify the residency requirement for eligibility. Sections are also added to provide administrative guidance regarding the terms of service for the contract, the reporting requirements for scholarship recipients, the conditions that would lead to a breach of contract and the consequences for such a breach, and waiver provisions. The waiver provisions allow for

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Proposed Regulation

Title of Regulation: **12VAC5-510. Guidelines for General Assembly Nursing Scholarships (amending 12VAC5-510-10 through 12VAC5-510-70; adding 12VAC5-510-15, 12VAC5-510-80 through 12VAC5-510-110).**

Statutory Authority: § 32.1-122.6:01 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

flexibility within the program in situations where the recipient and the recipient's family encounter hardship, disability, or death.

The Nursing Scholarship Program has been in existence for over 20 years. Although the field of nursing has evolved since that time, the regulations have not kept up with these changes. Amendments are being proposed to ensure that this program is consistent with how the industry has evolved over time. This includes more realistic expectations pertaining to the length of time required to find full-time employment upon graduation. The recipient of a scholarship currently has 60 days after graduation to report on the status of full-time employment in the commonwealth. This time frame is not consistent with the time frame needed to take the licensure exam, receive a license, and seek and find full-time employment. The proposed amendments allow the recipient up to 180 days after graduation before being required to report on the status of full-time or part-time employment in the Commonwealth. Finally, amendments are proposed to change the definition of full-time employment from 40 hours per week to 32 or more hours per week to be consistent with industry standards.

Issues: The advantages of the amendments are that the public will have a better understanding of how the scholarship program is administered, and the agency administering the program will have better direction for administering the program.

The recipients of the scholarship and their families will benefit because the regulations will include more clarity pertaining to their obligations and include provisions for waivers in situations of hardship, disability, and death.

There are no known disadvantages to the public or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Virginia Department of Health administers the Nursing Scholarship program, which provides annual nursing scholarships for students enrolled part-time and/or full-time in undergraduate and graduate nursing programs. Selected recipients agree to promptly begin and thereafter engage continuously in nursing practice in the Commonwealth in a region with a critical shortage of nurses for a period of time based on the total amount of scholarship awarded.

The Nursing Scholarship Program has been in existence for over twenty years. Although the field of nursing has evolved since that time, the regulations have not kept up with these changes. Amendments are being proposed to ensure that this program is consistent with how the industry has evolved over time. This includes more realistic expectations pertaining to the length of time required to find full-time employment upon graduation. Under the current regulations the recipient of a scholarship currently has 60 days after graduation to report on the status of full-time employment in the state. This time

frame is not consistent with the time frame needed to take the licensure exam, receive a license and seek and find full time employment. The Board of Health (Board) proposes to allow the recipient up to 180 days after graduation before being required to report on the status of full-time or part-time employment in the state. Additionally, the Board proposes to add longstanding elements of the contract signed by the scholarship recipient to the regulations for clarity. Finally, amendments are being proposed to change the definition of full time employment from 40 hours per week to 32 or more hours per week to be consistent with industry standards.

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

**Estimated Economic Impact.** The proposed amendments will make it easier for scholarship recipients to comply with requirements without risk or harm to the program. Thus the proposed amendments produce a net benefit.

**Businesses and Entities Affected.** The proposed amendments affect nursing students and prospective nursing students interested in applying for a General Assembly nursing scholarship.

**Localities Particularly Affected.** The proposed amendments do not disproportionately affect particular localities.

**Projected Impact on Employment.** The proposed amendments are unlikely to significantly affect employment.

**Effects on the Use and Value of Private Property.** The proposed amendments are unlikely to significantly affect the use and value of private property.

**Small Businesses: Costs and Other Effects.** The proposed amendments are unlikely to significantly affect small businesses.

**Small Businesses: Alternative Method that Minimizes Adverse Impact.** The proposed regulations do not adversely affect small businesses.

**Real Estate Development Costs.** The proposed regulations are unlikely to significantly affect real estate development costs.

**Legal Mandate.** The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 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

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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 Virginia Department of Health, Office of Minority Health and Health Equity (OMHHE) administers the Guidelines for General Assembly Nursing Scholarships (12VAC5-510). The OMHHE has reviewed the economic impact analysis and concurs with the analysis, specifically; the benefits likely exceed the costs for all proposed changes.

Summary:

*The proposed amendments (i) allow the nursing program scholarship recipient up to 180 days after graduation before having to report on the status of full-time or part-time employment in the Commonwealth; (ii) add longstanding elements of the contract signed by the scholarship recipient to the regulations for clarity; and (iii) change the definition of full-time employment from 40 hours per week to 32 or more hours per week to be consistent with industry standards.*

CHAPTER 510  
GUIDELINES FOR GENERAL ASSEMBLY NURSING  
SCHOLARSHIPS

~~This chapter has been prepared to familiarize scholarship applicants, Deans/Directors of nursing programs, and Financial Aid Officers with the General Assembly Nursing Scholarship Program. The legislative authority for the scholarships in addition to the actual steps involved in the application process are reviewed.~~

~~Do not hesitate to contact the Office of Public Health Nursing, Virginia State Health Department, 1500 East Main Street, Suite 227, Richmond, VA 23219, with any questions relating to the scholarship program. The phone number at the Bureau office is (804) 371-4090.~~

~~ALL SCHOLARSHIPS ARE AWARDED WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN.~~

**12VAC5-510-10. Legislative authority.**

Section 32.1-122.6:01 of the Code of Virginia provides the Board of Health the authority to award certain nursing scholarships and loan repayment funds. Fee requirements are specified in § 54.1-3011.1 of the Code of Virginia. Section 54.1-3011.2 of the Code of Virginia establishes the nursing scholarship and loan repayment fund.

Sections 23-35.9 through 23-35.13 of the Code of Virginia authorize annual nursing scholarships for students enrolled in undergraduate and graduate nursing programs. Undergraduate

nursing programs are defined as those leading to an associate degree, diploma, or baccalaureate degree in nursing. Graduate nursing programs are those offering masters and doctoral degrees.

~~Under the law, all~~ All scholarship awards are made by an Advisory Committee appointed by the State Board of Health. The Advisory Committee consists of eight members: four deans or directors of schools of nursing or their designees, two former scholarship recipients, and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms in addition to the portion of any unexpired term for which such a member was appointed. The State Board of Health shall schedule appointments to the Advisory Committee in such a manner that at least two persons who have not served during the previous two years are appointed to the Committee.

~~The Office of Public Health Nursing of the State Health Department of Health~~ serves as the staff element to the Advisory Committee and plays no role in the determination of scholarship recipients.

~~The basis for determining scholarship recipients is established by the~~ Advisory Committee shall make the awards with due regard given to scholastic attainment, financial need, character, and adaptability to the nursing profession. With due consideration of the number of applications and the qualifications of all such applicants, the Advisory Committee will, so far as practical, award an equal number of scholarships among the various congressional districts within the Commonwealth.

**12VAC5-510-15. Definitions.**

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

"Board" or "Board of Health" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Continuous" means that there are no breaks in service greater than a period of six weeks.

"Department" means the Virginia Department of Health.

"Full-time" means the equivalent of 32 or more hours per week for at least 45 weeks per year.

"Interest" means the legal rate of interest pursuant to the Code of Virginia.

"Licensed Practical Nurse" or "LPN" means a nurse who has successfully completed a state-approved practical nursing program, passed a licensing examination known as the NCLEX-PN, and is licensed by the Commonwealth of Virginia to provide routine care under the supervision of a licensed medical practitioner, a professional registered nurse,

or other licensed health professional authorized by regulations of the Board of Nursing.

"Penalty" means the amount of money equal to twice the amount of all monetary payments to the scholarship recipient, less any service obligation completed.

"Practice" means the provision of direct patient care as an LPN or RN in a region of the Commonwealth of Virginia with a critical shortage of nurses.

"Recipient" means a student in an LPN or RN program who enters into a contract with the Board of Health and participates in the scholarship program.

"Registered Nurse" or "RN" means a nurse who has graduated from an approved nursing program, passed the national licensing examination known as the NCLEX-RN, and has been licensed to practice as a registered nurse by the Board of Nursing in the Commonwealth of Virginia.

### **12VAC5-510-20. Eligibility.**

In order to be considered for a General Assembly Nursing Scholarship, applicants must meet the following criteria:

1. Be a resident of the State of Virginia for at least one year eligible for in-state tuition pursuant to § 23-7.4 of the Code of Virginia at the time a scholarship is awarded.
2. Be accepted or enrolled in a school of nursing in the State Commonwealth of Virginia which is approved by the State Board of Nursing. The only exception is for students pursuing graduate degrees not offered in the Commonwealth.
3. If already enrolled in a nursing program, the applicant must demonstrate a cumulative grade point average of at least 2.5.
4. Submit a completed application form and appropriate grade transcript to the ~~Office of Public Health Nursing department~~ prior to the ~~established~~ published deadline dates.
5. Demonstrate financial need which is verified by the Financial Aid Officer/authorized person.

~~FAILURE TO COMPLY WITH ALL OF THESE CRITERIA WILL CAUSE THE APPLICANT TO BE INELIGIBLE FOR A SCHOLARSHIP.~~

Failure to comply with all of these criteria will cause the applicant to be ineligible for a scholarship.

### **12VAC5-510-30. Conditions of scholarships.**

~~It is important that all applicants fully understand the conditions of acceptance of a General Assembly Nursing Scholarship. These awards are not outright gifts. For each \$100 of scholarship money received, the~~ The scholarship recipient agrees to engage in a term of service involving continuous full-time (40 hours per week) nursing practice in a region of the Commonwealth for one month with a critical shortage of nurses. Therefore, if a student receives \$500 in scholarship awards, they must repay that amount by working continuously for 5 months. Full time employment The

maximum award amounts and terms of service are determined as per §§ 23-35.9 and 23-35.11 of the Code of Virginia. Employment must begin within ~~60~~ 180 days of the recipient's graduation date. Time spent in an "on-call" status shall not be counted toward the number of hours worked per week. Voluntary military service, even if stationed in Virginia, cannot be used to repay scholarship awards the service obligation. If the recipient begins employment at a practice site, but that employment is later terminated, the recipient must transfer to another approved practice site in the Commonwealth within 90 days of termination.

~~If a scholarship recipient fails to complete their studies, or engage in full time nursing practice in Virginia, the full amount of money represented in the scholarship(s) received, plus an annual interest charge, must be refunded.~~

~~If a recipient leaves the State, or ceases to engage in full-time nursing practice before all employment conditions of the scholarship award are fulfilled, the recipient must repay the balance on his/her account plus an annual interest charge.~~

~~All refund checks should be made payable to the Commonwealth of Virginia and mailed to:~~

~~Office of Public Health Nursing  
State Health Department  
1500 East Main Street  
Suite 227  
Richmond, Virginia 23219~~

~~Before any scholarship is awarded, the applicant must sign a written contract agreeing to the terms established by law and the Advisory Committee.~~

### **12VAC5-510-40. Number of applications per student.**

Scholarships are awarded for single academic years. However, the same student may, after demonstrating satisfactory progress in his/her his studies, apply for and receive scholarship awards for any succeeding academic year or years. No student may receive scholarships for more than a total of ~~five~~ four years.

### **12VAC5-510-50. Amounts of scholarships.**

The amount of each scholarship award is dependent upon the amount of money appropriated by the General Assembly and the number of qualified applicants. No recipient ~~will~~ shall receive an award for less than ~~one hundred and fifty dollars~~ \$150. ~~Graduate nursing scholarships may not exceed four thousand dollars annually.~~

### **12VAC5-510-60. How to apply.**

~~Applications and Guidelines are available from the Dean/Director of your school or from the Financial Aid Office guidelines are made available to all prospective students online through the department's website.~~

~~If a student is pursuing a graduate degree not available in Virginia, applications may be obtained directly from the~~

# Regulations

Office of Public Health Nursing, State Health Department,  
1500 East Main Street, Suite 227, Richmond, VA 23219.

## 12VAC5-510-70. Deadline dates.

Applications will not be accepted in the Office of Public Health Nursing more than 6 months in advance of the following deadline dates: by the department outside of the application cycle.

March 15 for students already enrolled in schools of nursing.

June 15 for new students entering nursing programs.

~~APPLICATIONS AND/OR TRANSCRIPTS RECEIVED AFTER 5:00 PM ON THE ABOVE DATES WILL NOT BE CONSIDERED FOR SCHOLARSHIP AWARDS.~~

Applications and transcripts received after the published deadline date and time for the application cycle will not be considered for scholarship awards.

### FLOW CHART OF RESPONSIBILITIES

D—Dean or Director FAO—Financial Aid Officer S—R—Student Recipient			
RESPONSIBILITY	D	FAO	S—R
Distribute applications & Guidelines to those students who otherwise could not provide sufficient funds for themselves while in school.	X	X	
Maintain supply of current scholarship applications and guidelines. Notify the Office of Public Health Nursing when applications are needed.	X		
Make certain all parts of the application are completed, including the Financial Aid Officer/Authorized Person and Dean/Director signatures.			X
Be certain that a current transcript of grades (high school, or college if now attending) is sent to the Office of Public Health Nursing when applying for a scholarship (original and repeat requests) before deadline dates.			X
Review entire Section V Financial Data of application. Review whatever school records are accessible to determine the individual applicant's assets and expenditures.		X	

Recommend amount of scholarship to be awarded. Should there be a conflict between the student's request and the Financial Aid Officer's/Authorized Person's opinion of the amount that is needed, an explanation should be included.		X	
Review the completed application form before affixing the signature thereby indicating:	X		
A. The applicant has properly completed the application form.			
B. The Financial Aid Officer has verified proof of need.			
C. The applicant's entrance and graduation dates are correct.			
D. The school of nursing is recommending the applicant for a scholarship based upon potential nursing ability.			
Furnish whatever pertinent data that would be helpful to the scholarship committee when making the awards.	X	X	X
Forward the completed and signed application to the Office of Public Health Nursing before deadline dates.			X
Submit a transcript of grades to the Office of Public Health Nursing at the end of each grading period during scholarship year.			X
Notify the Office of Public Health Nursing when student recipient fails, transfers or withdraws from the school.	X		X
Notify the Office of Public Health Nursing when student recipient graduation date is changed.	X		X
Notify the Office of Public Health Nursing when there is a change in recipient's name and/or address			X
Upon graduation, notify the Office			X

of Public Health Nursing of plans for employment and beginning date of employment.			
Submit verification of employment to Office of Public Health Nursing at least every 6 months until work obligation is fulfilled.			X

**12VAC5-510-80. Scholarship contract.**

Applicants selected to receive scholarship awards by the Advisory Committee must sign and return a written contract to the department by the specified deadline date. Failure to return the contract by the specified deadline date may result in the award being rescinded. At minimum, the scholarship contract shall include the following elements:

1. Agreement with the total amount of the award and the award period.
2. Agreement to pursue an LPN or RN degree in nursing at a school of nursing in the Commonwealth of Virginia that is approved by the Board of Nursing.
3. Agreement to begin continuous full-time employment within 180 days of the recipient's graduation.
4. Agreement to comply with all reporting requirements.
5. Agreement with the terms of service requiring continuous full-time nursing practice in the Commonwealth for a specified period of time and the terms and conditions associated with a breach of contract.

A recipient may terminate a contract while enrolled in school after notice to the board and upon repayment within 90 days of the entire amount of the scholarship plus interest.

**12VAC5-510-90. Reporting requirements.**

Monitoring of the service obligation of recipients shall be conducted on an ongoing basis by the department.

The recipient shall permit the nursing school to provide information regarding enrollment status and progress in the program.

The recipient shall notify the department, within 180 days of being awarded a nursing diploma or degree, of the type of nursing practice to be performed and give the name and address of the employer for approval.

The recipient shall submit to the department verification of employment documentation every four months until the contract obligation has been completely fulfilled.

The recipient shall maintain practice records in a manner that will allow the department to readily determine compliance with the terms and conditions of the contract.

The recipient shall notify the department in writing within 30 days of any of the following events:

1. Recipient changes name;
2. Recipient changes address;
3. Recipient changes nursing program;

4. Recipient changes practice site;
5. Recipient no longer intends to fulfill service obligation as a nurse in the Commonwealth; or
6. Recipient ceases to practice as an RN or LPN.

**12VAC5-510-100. Breach of contract.**

The following are the conditions that constitute a breach of contract:

1. The recipient fails to complete his nursing studies.
2. The recipient fails to begin or complete the term of obligated service within the time frames as specified in the scholarship contract.
3. The recipient falsifies or misrepresents information on the program application, the verification of employment forms, or other required documents.

In the event of a breach of contract where the recipient fails to complete his nursing studies, the recipient shall reimburse the Commonwealth of Virginia for the total amount of the scholarship award, plus interest.

In the event of a breach of contract where the recipient fails to begin or complete the term of obligated service within the time frames as specified in the scholarship contract, the recipient shall reimburse the Commonwealth of Virginia for the total amount of the scholarship, plus penalty and interest.

In the event of a breach of contract where the recipient has partially fulfilled their obligation, the total amount of reimbursement shall be prorated by the proportion of obligation completed.

**12VAC5-510-110. Deferment and waivers.**

The requirement for continuous engagement in full-time nursing practice may be deferred by the board if the scholarship recipient requests a deferment to pursue a more advanced degree in nursing or a nursing-related field. This deferment, if granted, shall not relieve the recipient of the responsibility to complete the remaining portion of the obligation upon completion of the advanced nursing degree.

If the recipient is in default due to death or permanent disability, the obligation to reimburse the Commonwealth of Virginia for the total amount of the scholarship award plus interest may be partially or completely waived by the board upon application of the recipient or the recipient's estate to the board.

Other individual situations involving severe hardship may be considered by the board for deferment of the service obligation or partial or total waiver of the repayment obligation. Deferment and waiver requests will not be permitted as a matter of course, but may be allowed in the most compelling cases.

All requests for deferments or waivers must be submitted in writing to the department for consideration and final disposition by the Advisory Committee or the board.

V.A.R. Doc. No. R11-2804; Filed June 17, 2013; 1:02 p.m.

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# Regulations

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## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Final Regulation

**REGISTRAR'S NOTICE:** The 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 Board of Medical Assistance Services will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

**Titles of Regulations:** 12VAC30-70. Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (amending 12VAC30-70-50, 12VAC30-70-351).

12VAC30-80. Methods and Standards for Establishing Payment Rates; other Types of Care (amending 12VAC30-80-180, 12VAC30-80-200).

12VAC30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care (amending 12VAC30-90-36, 12VAC30-90-41).

**Statutory Authority:** § 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

**Effective Date:** August 14, 2013.

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

#### Summary:

*Item 307 of Chapter 3 of the 2012 Acts of Assembly required a number of changes in reimbursement methodology affecting many providers. The amendments implement those changes as follows: (i) 12VAC30-70-50 is amended to limit the inflation adjustment for long stay inpatient hospitals to 2.6%, effective for state fiscal year (SFY) 2013, and to 0.0% for SFY 2014; (ii) 12VAC30-70-351 is amended per Item 307 LLL to limit the inflation adjustment for inpatient hospital (including freestanding psychiatric hospitals) operating rates, disproportionate share hospital rates, and graduate medical education payments to 2.6%, effective for SFY 2013 and to 0.0% for SFY 2014; (iii) 12VAC30-80-180 and 12VAC30-80-200 are amended to eliminate the inflation adjustment for home health and outpatient rehabilitation agencies, effective for SFYs 2013 and 2014; (iv) 12VAC30-90-36 is amended to change the nursing facility capital rental rate floor from 9.0% to 8.5%, effective for dates of service on or after July 1, 2012 (effective July 1, 2011, through June 30, 2012, the nursing facility capital rental rate floor was 8.0%, and, absent any action, the rental rate floor would have been restored to 9.0% effective July 1, 2012); and (v) 12VAC30-*

*90-41 is amended per Item 307 MMM to increase operating rates for regular and specialized care nursing facilities by 2.2% in SFYs 2013 and 2014 and to increase the inflation adjustment ceiling by 3.2% effective for SFY 2013 and by 2.2% effective for SFY 2014.*

#### 12VAC30-70-50. Hospital reimbursement system.

The reimbursement system for hospitals includes the following components:

A. Hospitals were grouped by classes according to number of beds and urban versus rural. (Three groupings for rural - 0 to 100 beds, 101 to 170 beds, and over 170 beds; four groupings for urban - 0 to 100, 101 to 400, 401 to 600, and over 600 beds.) Groupings are similar to those used by the Health Care Financing Administration (HCFA) in determining routine cost limitations.

B. Prospective reimbursement ceilings on allowable operating costs were established as of July 1, 1982, for each grouping. Hospitals with a fiscal year end after June 30, 1982, were subject to the new reimbursement ceilings.

1. The calculation of the initial group ceilings as of July 1, 1982, was based on available, allowable cost data for hospitals in calendar year 1981. Individual hospital operating costs were advanced by a reimbursement escalator from the hospital's year end to July 1, 1982. After this advancement, the operating costs were standardized using SMSA wage indices, and a median was determined for each group. These medians were readjusted by the wage index to set an actual cost ceiling for each SMSA. Therefore, each hospital grouping has a series of ceilings representing one of each SMSA area. The wage index is based on those used by HCFA in computing its Market Basket Index for routine cost limitations.

2. Effective July 1, 1986, and until June 30, 1988, providers subject to the prospective payment system of reimbursement had their prospective operating cost rate and prospective operating cost ceiling computed using a new methodology. This method uses an allowance for inflation based on the percent of change in the quarterly average of the Medical Care Index of the Chase Econometrics - Standard Forecast determined in the quarter in which the provider's new fiscal year began.

3. The prospective operating cost rate is based on the provider's allowable cost from the most recent filed cost report, plus the inflation percentage add-on.

4. The prospective operating cost ceiling is determined by using the base that was in effect for the provider's fiscal year that began between July 1, 1985, and June 1, 1986. The allowance for inflation percent of change for the quarter in which the provider's new fiscal year began is added to this base to determine the new operating cost ceiling. This new ceiling was effective for all providers on July 1, 1986. For subsequent cost reporting periods beginning on or after July 1, 1986, the last prospective

operating rate ceiling determined under this new methodology will become the base for computing the next prospective year ceiling.

5. Effective on and after July 1, 1988, and until June 30, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Data Resources, Incorporated Health Care Cost HCFA-Type Hospital Market Basket determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1988, for all such hospitals shall be adjusted to reflect this change.

6. Effective on or after July 1, 1989, for providers subject to the prospective payment system, the allowance for inflation shall be based on the percent of change in the moving average of the Health Care Cost HCFA-Type Hospital Market Basket, adjusted for Virginia, as developed by Data Resources, Incorporated, determined in the quarter in which the provider's new fiscal year begins. Such providers shall have their prospective operating cost rate and prospective operating cost ceiling established in accordance with the methodology which became effective July 1, 1986. Rates and ceilings in effect July 1, 1989, for all such hospitals shall be adjusted to reflect this change.

7. Effective on and after July 1, 1992, for providers subject to the prospective payment system, the allowance for inflation, as described above, which became effective on July 1, 1989, shall be converted to an escalation factor by adding two percentage points, (200 basis points) to the then current allowance for inflation. The escalation factor shall be applied in accordance with the inpatient hospital reimbursement methodology in effect on June 30, 1992. On July 1, 1992, the conversion to the new escalation factor shall be accomplished by a transition methodology which, for non-June 30 year end hospitals, applies the escalation factor to escalate their payment rates for the months between July 1, 1992, and their next fiscal year ending on or before May 31, 1993.

Effective July 1, 2010, through June 30, 2012, the escalation factor shall be zero. In addition, ceilings shall remain at the same level as the ceilings for long stay hospitals with fiscal year's end of June 30, 2010.

Effective July 1, 2009, the escalation factor shall be equal to the allowance for inflation.

Effective July 1, 2012, through June 30, 2013, the escalation factor for inpatient hospitals, including long stay hospitals, shall be 2.6%.

Effective July 1, 2013, through June 30, 2014, the escalation factor for inpatient hospitals, including long stay hospitals, shall be 0.0%.

8. The new method will still require comparison of the prospective operating cost rate to the prospective operating ceiling. The provider is allowed the lower of the two amounts subject to the lower of cost or charges principles.

C. Subsequent to June 30, 1992, the group ceilings shall not be recalculated on allowable costs, but shall be updated by the escalator factor.

D. Prospective rates for each hospital shall be based upon the hospital's allowable costs plus the escalator factor, or the appropriate ceilings, or charges; whichever is lower. Except to eliminate costs that are found to be unallowable, no retrospective adjustment shall be made to prospective rates.

Capital and education costs approved pursuant to PRM-15 (§ 400), shall be considered as pass throughs and not part of the calculation. Capital cost is reimbursed the percentage of allowable cost specified in 12VAC30-70-271.

E. An incentive plan should be established whereby a hospital will be paid on a sliding scale, percentage for percentage, up to 10.5% of the difference between allowable operating costs and the appropriate per diem group ceiling when the operating costs are below the ceilings. The incentive should be calculated based on the annual cost report. Effective for dates of service July 1, 2010, through September 30, 2010, the incentive plan shall be eliminated.

F. Disproportionate share hospitals defined.

The following criteria shall be met before a hospital is determined to be eligible for a disproportionate share payment adjustment.

1. Criteria.

a. A Medicaid inpatient utilization rate in excess of 10.5% for hospitals receiving Medicaid payments in the Commonwealth, or a low-income patient utilization rate exceeding 25% (as defined in the Omnibus Budget Reconciliation Act of 1987 and as amended by the Medicare Catastrophic Coverage Act of 1988); and

b. At least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures.

c. Subdivision 1 b of this subsection does not apply to a hospital:

(1) At which the inpatients are predominantly individuals under 18 years of age; or

(2) Which does not offer nonemergency obstetric services as of December 21, 1987.

2. Payment adjustment.

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a. Hospitals which have a disproportionately higher level of Medicaid patients shall be allowed a disproportionate share payment adjustment based on the type of hospital and on the individual hospital's Medicaid utilization. There shall be two types of hospitals: (i) Type One, consisting of state-owned teaching hospitals, and (ii) Type Two, consisting of all other hospitals. The Medicaid utilization shall be determined by dividing the number of utilization Medicaid inpatient days by the total number of inpatient days. Each hospital with a Medicaid utilization of over 10.5% shall receive a disproportionate share payment adjustment.

b. For Type One hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 10.5% times 11, times (ii) the lower of the prospective operating cost rate or ceiling. For Type Two hospitals, the disproportionate share payment adjustment shall be equal to the product of (i) the hospital's Medicaid utilization in excess of 10.5% times (ii) the lower of the prospective operating cost rate or ceiling.

c. No payments made under subdivision 1 or 2 of this subsection shall exceed any applicable limitations upon such payments established by federal law or regulations.

## G. Outlier adjustments.

1. DMAS shall pay to all enrolled hospitals an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under one year of age.

2. DMAS shall pay to disproportionate share hospitals (as defined in subsection F of this section) an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1991, involving exceptionally high costs for individuals under six years of age.

3. The outlier adjustment calculation.

a. Each eligible hospital which desires to be considered for the adjustment shall submit a log which contains the information necessary to compute the mean of its Medicaid per diem operating cost of treating individuals identified in subdivision 1 or 2 of this subsection. This log shall contain all Medicaid claims for such individuals, including, but not limited to: (i) the patient's name and Medicaid identification number; (ii) dates of service; (iii) the remittance date paid; (iv) the number of covered days; and (v) total charges for the length of stay. Each hospital shall then calculate the per diem operating cost (which excludes capital and education) of treating such patients by multiplying the charge for each patient by the Medicaid operating cost-to-charge ratio determined from its annual cost report.

b. Each eligible hospital shall calculate the mean of its Medicaid per diem operating cost of treating individuals identified in subdivision 1 or 2 of this subsection.

c. Each eligible hospital shall calculate its threshold for payment of the adjustment, at a level equal to two and one-half standard deviations above the mean or means calculated in subdivision 3 a (ii) of this subsection.

d. DMAS shall pay as an outlier adjustment to each eligible hospital all per diem operating costs which exceed the applicable threshold or thresholds for that hospital.

4. Pursuant to 12VAC30-50-100, there is no limit on length of time for medically necessary stays for individuals under six years of age. This section provides that consistent with 42 CFR 441.57, payment of medical assistance services shall be made on behalf of individuals under 21 years of age, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission when such services are rendered for the purpose of diagnosis and treatment of health conditions identified through a physical examination. Medical documentation justifying admission and the continued length of stay must be attached to or written on the invoice for review by medical staff to determine medical necessity. Medically unjustified days in such admissions will be denied.

## 12VAC30-70-351. Updating rates for inflation.

A. Each July, the Virginia moving average values as compiled and published by Global Insight (or its successor), under contract with the department shall be used to update the base year standardized operating costs per case, as determined in 12VAC30-70-361, and the base year standardized operating costs per day, as determined in 12VAC30-70-371, to the midpoint of the upcoming state fiscal year. The most current table available prior to the effective date of the new rates shall be used to inflate base year amounts to the upcoming rate year. Thus, corrections made by Global Insight (or its successor), in the moving averages that were used to update rates for previous state fiscal years shall be automatically incorporated into the moving averages that are being used to update rates for the upcoming state fiscal year.

B. The inflation adjustment for hospital operating rates, disproportionate share hospitals (DSH) payments, and graduate medical education payments shall be zero percent for fiscal year (FY) 2010. The elimination of the inflation adjustments shall not be applicable to re-basing in FY 2011.

C. In FY 2011, hospital operating rates shall be rebased; however the 2008 base year costs shall only be increased 2.58% for inflation. For FY 2011 there shall be no inflation adjustment for graduate medical education (GME) or freestanding psychiatric facility rates. The inflation adjustment shall be eliminated for hospital operating rates, GME payments, and freestanding psychiatric facility rates for FY 2012. The inflation adjustment shall be 2.6% for inpatient

hospitals, including hospital operating rates, GME payments, DSH payments, and freestanding psychiatric facility rates for FY 2013, and 0.0% for the same facilities for FY 2014.

**12VAC30-80-180. Establishment of rate per visit.**

A. Effective for dates of services on and after July 1, 1991, the Department of Medical Assistance Services (DMAS) shall reimburse home health agencies (HHAs) at a flat rate per visit for each type of service rendered by HHAs (i.e., nursing, physical therapy, occupational therapy, speech-language pathology services, and home health aide services.) In addition, supplies left in the home and extraordinary transportation costs will be paid at specific rates.

B. Effective for dates of services on and after July 1, 1993, DMAS shall establish a flat rate for each level of service for HHAs by peer group. There shall be three peer groups: (i) the Department of Health's HHAs, (ii) non-Department of Health HHAs whose operating office is located in the Virginia portion of the Washington DC-MD-VA metropolitan statistical area, and (iii) non-Department of Health HHAs whose operating office is located in the rest of Virginia. The use of the Health Care Financing Administration (HCFA) designation of urban metropolitan statistical areas (MSAs) shall be incorporated in determining the appropriate peer group for these classifications.

The Department of Health's agencies are being placed in a separate peer group due to their unique cost characteristics (only one consolidated cost report is filed for all Department of Health agencies).

C. Rates shall be calculated as follows:

1. Each home health agency shall be placed in its appropriate peer group.
2. Department of Health HHAs' Medicaid cost per visit (exclusive of medical supplies costs) shall be obtained from its 1989 cost-settled Medicaid cost report. Non-Department of Health HHAs' Medicaid cost per visit (exclusive of medical supplies costs) shall be obtained from the 1989 cost-settled Medicaid Cost Reports filed by freestanding HHAs. Costs shall be inflated to a common point in time (June 30, 1991) by using the percent of change in the moving average factor of the Data Resources Inc., (DRI), National Forecast Tables for the Home Health Agency Market Basket (as published quarterly).
3. To determine the flat rate per visit effective July 1, 1993, the following methodology shall be utilized:
  - a. The peer group HHA's per visit rates shall be ranked and weighted by the number of Medicaid visits per discipline to determine a median rate per visit for each peer group at July 1, 1991.
  - b. The HHA's peer group median rate per visit for each peer group at July 1, 1991, shall be the interim peer group rate for calculating the update through January 1, 1992. The interim peer group rate shall be updated by 100% of historical inflation from July 1, 1991, through

December 31, 1992, and shall become the final interim peer group rate which shall be updated by 50% of the forecasted inflation to the end of December 31, 1993, to establish the final peer group rates. The lower of the final peer group rates or the Medicare upper limit at January 1, 1993, will be effective for payments from July 1, 1993, through December 1993.

c. Separate rates shall be provided for the initial assessment, follow-up, and comprehensive visits for skilled nursing and for the initial assessment and follow-up visits for physical therapy, occupational therapy, and speech therapy. The comprehensive rate shall be 200% of the follow-up rate, and the initial assessment rates shall be \$15 higher than the follow-up rates. The lower of the peer group median or Medicare upper limits shall be adjusted as appropriate to assure budget neutrality when the higher rates for the comprehensive and initial assessment visits are calculated.

4. The fee schedule shall be adjusted annually beginning July 1, 2010, based on the percent of change in the moving average of the National Forecast Tables for the Home Health Agency Market Basket published by Global Insight (or its successor) for the second quarter of the calendar year in which the fiscal year begins. The report shall be the latest published report prior to the fiscal year. The method to calculate the annual update shall be:

- a. All subsequent year peer group rates shall be calculated utilizing the previous final peer group rate established on July 1.
- b. The annual July 1 update shall be compared to the Medicare upper limit per visit in effect on each January 1, and the HHA's shall receive the lower of the annual update or the Medicare upper limit per visit as the final peer group rate.

D. Effective July 1, 2009, the previous inflation increase effective January 1, 2009, shall be reduced by 50%.

E. Effective July 1, 2010, through ~~June 30, 2012~~, June 30, 2014, there shall be no inflation adjustment for home health agencies.

**12VAC30-80-200. Prospective reimbursement for rehabilitation agencies or comprehensive outpatient rehabilitation facilities.**

A. Rehabilitation agencies or comprehensive outpatient rehabilitation facilities.

1. Effective for dates of service on and after July 1, 2009, rehabilitation agencies or comprehensive outpatient rehabilitation facilities, excluding those operated by community services boards or state agencies, shall be reimbursed a prospective rate equal to the lesser of the agency's fee schedule amount or billed charges per procedure. The agency shall develop a statewide fee schedule based on CPT codes to reimburse providers what

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the agency estimates they would have been paid in FY 2010 minus \$371,800.

2. Effective for dates of service on and after October 1, 2009, rehabilitation agencies or comprehensive outpatient rehabilitation facilities, excluding those operated by state agencies shall be reimbursed a prospective rate equal to the lesser of the agency's fee schedule amount or billed charges per procedure. The agency shall develop a statewide fee schedule based on CPT codes to reimburse providers what the agency estimates they would have been paid in FY 2010 minus \$371,800.

B. Reimbursement for rehabilitation agencies subject to the new fee schedule methodology.

1. Payments for the fiscal year ending or in progress on June 30, 2009, shall be settled for private rehabilitation agencies based on the previous prospective rate methodology and the ceilings in effect for that fiscal year as of June 30, 2009.

2. Payments for the fiscal year ending or in progress on September 30, 2009, shall be settled for community services boards based on the previous prospective rate methodology and the ceilings in effect for that fiscal year as of September 30, 2009.

C. Beginning with state fiscal years beginning on or after July 1, 2010, rates shall be adjusted annually for inflation using the Virginia-specific nursing home input price index contracted for by the agency. The agency shall use the percent moving average for the quarter ending at the midpoint of the rate year from the most recently available index prior to the beginning of the rate year.

D. Reimbursement for physical therapy, occupational therapy, and speech-language therapy services shall not be provided for any sums that the rehabilitation provider collects, or is entitled to collect, from the nursing facility or any other available source, and provided further, that this subsection shall in no way diminish any obligation of the nursing facility to DMAS to provide its residents such services, as set forth in any applicable provider agreement.

E. Effective July 1, 2010, ~~through June 30, 2014~~, there will be no inflation adjustment for outpatient rehabilitation facilities ~~through June 30, 2012~~.

## **12VAC30-90-36. Nursing Facility ~~Capital Payment Methodology~~ facility capital payment methodology.**

A. Applicability. The capital payment methodology described in this article shall be applicable to freestanding nursing facilities but not to hospital-based facilities. Hospital-based facilities shall continue to be reimbursed under the methodology contained in Article 2 (12VAC30-90-30 et seq.) of this subpart. For purposes of this provision, a hospital-based nursing facility shall be one for which a combined cost report is submitted on behalf of both the hospital and the nursing facility.

B. Definitions. The following words and terms when used in this article shall have the following meaning unless the context clearly indicates otherwise:

"Capital costs" means costs that include the cost elements of depreciation, interest, financing costs, rent and lease costs for property, building and equipment, property insurance and property taxes.

"Date of acquisition" means the date legal title passed to the buyer. If a legal titling date is not determinable for a nursing facility building, date of acquisition shall be considered to be the date a certificate of occupancy was issued by the appropriate licensing or building inspection agency of the locality where the nursing facility is located.

"Facility average age" means for a facility the weighted average of the ages of all capitalized assets of the facility, with the weights equal to the expenditures for those assets. The calculation of average age shall take into account land improvements, building and fixed equipment, and major movable equipment. The basis for the calculation of average age shall be the schedule of assets submitted annually to the department in accordance with the provisions of this section.

"Facility imputed gross square feet" means a number that is determined by multiplying the facility's number of nursing facility licensed beds licensed by the Virginia Department of Health by the imputed number of gross square feet per bed. The imputed number of gross square feet per bed shall be 461 for facilities of 90 or fewer beds, and 438 for facilities of more than 90 beds. The number of licensed nursing facility beds shall be the number on the last day of the provider's most recent fiscal year end for which a cost report has been filed.

"Factor for land and soft costs" means a factor equaling 1.429 that adjusts the construction cost amount to recognize land and capitalized costs associated with construction of a facility that are not part of the R.S. Means construction cost amount.

"Fixed capital replacement value" means an amount equal to the R.S. Means 75th percentile nursing home construction cost per square foot, times the applicable R.S. Means historical cost index factor, times the factor for land and soft costs, times the applicable R.S. Means "Location Factor," times facility imputed gross square feet.

"FRV depreciation rate" means a depreciation rate equal to 2.86% per year.

"Hospital-based facility" means one for which a single combined Medicare cost report is filed that includes the costs of both the hospital and the nursing home.

"Movable capital replacement value" means a value equal to \$3,475 per bed in SFY 2001, and shall be increased each July 1 by the same R.S. Means historical cost index factor that is used to calculate the fixed capital replacement value. Each year's updated movable capital replacement value shall be used in the calculation of each provider's rate for the provider

year beginning on or after the date the new value becomes effective.

"R.S. Means 75th percentile nursing construction cost per square foot" means the 75th percentile value published in the 59th Annual Edition of the R.S. Means Building Construction Cost Data, 2001. In the 2000 edition of the R.S. Means publication this value is \$110, which is reported as a January 2000 value.

"R.S. Means historical cost index factor" means the ratio of the two most recent R.S. Means Historical Cost Indexes published in the 59th Annual Edition of the R.S. Means Building Construction Cost Data, 2001. In the 2000 edition of this R.S. Means publication these two values are 117.6 (for 1999) and 115.1 (for 1998). The ratio of these values, and therefore the factor to be used, would be 1.022. This factor would be used to adjust the January 2000 value for the one year of change from January 2000 to January 2001, the mid-point of the prospective rate year (SFY 2001). The resulting cost value that would be used in SFY 2001 is \$112.42. The indexes used in this calculation do not match the time period for which a factor is needed. They relate to 1998 and 1999, while 2000 and 2001 would be ideal. However, R.S. Means does not publish index forecasts, so the most recent available indexes shall be used.

"R.S. Means Location Factors" means those published in the 22nd Annual Edition of the R.S. Means Square Foot Costs, 2001. The 2000 location factors are shown in the following Table 1. They will be updated annually and distributed to providers based upon the most recent available data.

Zip Code	Principal City	Location Factor
220-221	Fairfax	0.90
222	Arlington	0.90
223	Alexandria	0.91
224-225	Fredericksburg	0.85
226	Winchester	0.80
227	Culpeper	0.80
228	Harrisonburg	0.77
229	Charlottesville	0.82
230-232	Richmond	0.85
233-235	Norfolk	0.82
236	Newport News	0.82
237	Portsmouth	0.81
238	Petersburg	0.84

239	Farmville	0.74
240-241	Roanoke	0.77
242	Bristol	0.75
243	Pulaski	0.70
244	Staunton	0.76
245	Lynchburg	0.77
246	Grundy	0.70

"Rental rate" means for a prospective year a rate equal to two percentage points plus the yield on U.S. Treasury Bonds with maturity over 10 years, averaged over the most recent three calendar years for which data are available, as published by the Federal Reserve (Federal Reserve Statistical Release H.15 Selected Interest Rates ([www.Federalreserve.gov/releases/](http://www.Federalreserve.gov/releases/))). The rate will be published and distributed to providers annually. Changes in the rental rate shall be effective for the providers' fiscal year beginning on or after July 1. Rental rates may not fall below 9.0% or exceed 11% and will be updated annually on or about July 1 each year. Effective July 1, 2010, through September 30, 2010, the floor for the nursing facility rental rates may not fall below 8.75%. Effective October 1, 2010, through June 30, 2011, the floor for the nursing facility rental rates may not fall below 9.0%. Effective July 1, 2011, through June 30, 2012, the floor for the nursing facility rental rates may not fall below 8.0%. Effective July 1, 2012, through June 30, 2014, the floor for the nursing facility rental rates may not fall below 8.5%. The rate will be published and distributed to providers annually. Changes in the rental rate shall be effective for the providers' fiscal year beginning on or after July 1.

"Required occupancy percentage" means an occupancy percentage of 90%.

"SFY" means State Fiscal Year (July 1 through June 30).

1. Fair Rental Value (FRV) Payment for Capital. Effective for dates of service on or after July 1, 2001, DMAS shall pay nursing facility capital related costs under a FRV methodology. The payment made under this methodology shall be the only payment for capital related costs, and no separate payment shall be made for depreciation or interest expense, lease costs, property taxes, insurance, or any other capital related cost, including home office capital costs. This payment is considered to cover costs related to land, buildings and fixed equipment, major movable equipment, and any other capital related item. This shall be the case regardless of whether the property is owned or leased by the operator. The department shall review the operation and performance of the FRV methodology every two years.

2. FRV Rate Year. The FRV payment rate shall be a per diem rate determined each year for each facility using the

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most recent available data from settled cost reports, or from other verified sources as specified herein. The per diem rate shall be determined prospectively and shall apply for the entire fiscal year. Each provider shall receive a new capital per diem rate each year effective at the start of the provider's fiscal year, except that the capital per diem rate shall be revised for the rental rate changes effective July 1, 2010, through June 30, 2012. Data elements that are provider specific shall be revised at that time and shall rely on the settled cost report and schedule of assets of the previous year. Data elements that are not provider specific, including those published by R.S. Means and the rental rate, shall be determined annually on or about July 1, and shall apply to provider fiscal years beginning on or after July 1. That is, each July 1 DMAS shall determine the R.S. Means values and the rental rate, and these shall apply to all provider fiscal years beginning on or after July 1.

## **12VAC30-90-41. Nursing facility reimbursement formula.**

A. Effective on and after July 1, 2002, all NFs subject to the prospective payment system shall be reimbursed under "The Resource Utilization Group-III (RUG-III) System as defined in Appendix IV (12VAC30-90-305 through 12VAC30-90-307)." RUG-III is a resident classification system that groups NF residents according to resource utilization. Case-mix indices (CMIs) are assigned to RUG-III groups and are used to adjust the NF's per diem rates to reflect the intensity of services required by a NF's resident mix. See 12VAC30-90-305 through 12VAC30-90-307 for details on the Resource Utilization Groups.

1. Any NF receiving Medicaid payments on or after October 1, 1990, shall satisfy all the requirements of § 1919(b) through (d) of the Social Security Act as they relate to provision of services, residents' rights and administration and other matters.
2. Direct and indirect group ceilings and rates.
  - a. In accordance with 12VAC30-90-20 C, direct patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA, the Richmond-Petersburg MSA and the rest of the state. Direct patient care operating costs shall be as defined in 12VAC30-90-271.
  - b. Indirect patient care operating cost peer groups shall be established for the Virginia portion of the Washington DC-MD-VA MSA, for the rest of the state for facilities with less than 61 licensed beds, and for the rest of the state for facilities with more than 60 licensed beds.
3. Each facility's average case-mix index shall be calculated based upon data reported by that nursing facility to the Centers for Medicare and Medicaid Services (CMS) (formerly HCFA) Minimum Data Set (MDS) System. See 12VAC30-90-306 for the case-mix index calculations.
4. The normalized facility average Medicaid CMI shall be used to calculate the direct patient care operating cost

prospective ceilings and direct patient care operating cost prospective rates for each semiannual period of a NFs subsequent fiscal year. See 12VAC30-90-306 D 2 for the calculation of the normalized facility average Medicaid CMI.

- a. A NFs direct patient care operating cost prospective ceiling shall be the product of the NFs peer group direct patient care ceiling and the NFs normalized facility average Medicaid CMI. A NFs direct patient care operating cost prospective ceiling will be calculated semiannually.
- b. A CMI rate adjustment for each semiannual period of a nursing facility's prospective fiscal year shall be applied by multiplying the nursing facility's normalized facility average Medicaid CMI applicable to each prospective semiannual period by the nursing facility's case-mix neutralized direct patient care operating cost base rate for the preceding cost reporting period (see 12VAC30-90-307).
- c. See 12VAC30-90-307 for the applicability of case-mix indices.

## 5. Direct and indirect ceiling calculations.

- a. Effective for services on and after July 1, 2006, the direct patient care operating ceiling shall be set at 117% of the respective peer group day-weighted median of the facilities' case-mix neutralized direct care operating costs per day. The calculation of the medians shall be based on cost reports from freestanding nursing homes for provider fiscal years ending in the most recent base year. The medians used to set the peer group direct patient care operating ceilings shall be revised and case-mix neutralized every two years using the most recent reliable calendar year cost settled cost reports for freestanding nursing facilities that have been completed as of September 1.
- b. The indirect patient care operating ceiling shall be set at 107% of the respective peer group day-weighted median of the facility's specific indirect operating cost per day. The calculation of the peer group medians shall be based on cost reports from freestanding nursing homes for provider fiscal years ending in the most recent base year. The medians used to set the peer group indirect operating ceilings shall be revised every two years using the most recent reliable calendar year cost settled cost reports for freestanding nursing facilities that have been completed as of September 1.

6. Reimbursement for use of specialized treatment beds. Effective for services on and after July 1, 2005, nursing facilities shall be reimbursed an additional \$10 per day for those recipients who require a specialized treatment bed due to their having at least one Stage IV pressure ulcer. Recipients must meet criteria as outlined in 12VAC30-60-350, and the additional reimbursement must be preauthorized as provided in 12VAC30-60-40. Nursing

facilities shall not be eligible to receive this reimbursement for individuals whose services are reimbursed under the specialized care methodology. Beginning July 1, 2005, this additional reimbursement shall be subject to adjustment for inflation in accordance with 12VAC30-90-41 B, except that the adjustment shall be made at the beginning of each state fiscal year, using the inflation factor that applies to provider years beginning at that time. This additional payment shall not be subject to direct or indirect ceilings and shall not be adjusted at year-end settlement.

B. Adjustment of ceilings and costs for inflation. Effective for provider fiscal years starting on and after July 1, 2002, ceilings and rates shall be adjusted for inflation each year using the moving average of the percentage change of the Virginia-Specific Nursing Home Input Price Index, updated quarterly, published by Standard & Poor's DRI. For state fiscal year 2003, peer group ceilings and rates for indirect costs will not be adjusted for inflation.

1. For provider years beginning in each calendar year, the percentage used shall be the moving average for the second quarter of the year, taken from the table published for the fourth quarter of the previous year. For example, in setting prospective rates for all provider years beginning in January through December 2002, ceilings and costs would be inflated using the moving average for the second quarter of 2002, taken from the table published for the fourth quarter of 2001.

2. Provider specific costs shall be adjusted for inflation each year from the cost reporting period to the prospective rate period using the moving average as specified in subdivision 1 of this subsection. If the cost reporting period or the prospective rate period is less than 12 months

long, a fraction of the moving average shall be used that is equal to the fraction of a year from the midpoint of the cost reporting period to the midpoint of the prospective rate period.

3. Ceilings shall be adjusted from the common point established in the most recent rebasing calculation. Base period costs shall be adjusted to this common point using moving averages from the DRI tables corresponding to the provider fiscal period, as specified in subdivision 1 of this subsection. Ceilings shall then be adjusted from the common point to the prospective rate period using the moving average(s) for each applicable second quarter, taken from the DRI table published for the fourth quarter of the year immediately preceding the calendar year in which the prospective rate years begin. Rebased ceilings shall be effective on July 1 of each rebasing year, so in their first application they shall be adjusted to the midpoint of the provider fiscal year then in progress or then beginning. Subsequently, they shall be adjusted each year from the common point established in rebasing to the midpoint of the appropriate provider fiscal year. For example, suppose the base year is made up of cost reports from years ending in calendar year 2000, the rebasing year is SFY2003, and the rebasing calculation establishes ceilings that are inflated to the common point of July 1, 2002. Providers with years in progress on July 1, 2002, would receive a ceiling effective July 1, 2002, that would be adjusted to the midpoint of the provider year then in progress. In some cases this would mean the ceiling would be reduced from the July 1, 2002, ceiling level. The following table shows the application of these provisions for different provider fiscal periods.

Table I  
Application of Inflation to Different Provider Fiscal Periods

Provider FYE	Effective Date of New Ceiling	First PFYE After Rebasing Date	Inflation Time Span from Ceiling Date to Midpoint of First PFY	Second PFYE After Rebasing Date	Inflation Time Span from Ceiling Date to Midpoint of Second PFY
3/31	7/1/02	3/31/03	+ 1/4 year	3/31/04	+ 1-1/4 years
6/30	7/1/02	6/30/03	+ 1/2 year	6/30/04	+ 1-1/2 years
9/30	7/1/02	9/30/02	- 1/4 year	9/30/03	+ 3/4 year
12/31	7/1/02	12/31/02	-0-	12/31/03	+ 1 year

The following table shows the DRI tables that would provide the moving averages for adjusting ceilings for different prospective rate years.

Table II  
Source Tables for DRI Moving Average Values

Provider FYE	Effective Date of New Ceiling	First PFYE After Rebasing Date	Source DRI Table for First PFY Ceiling Inflation	Second PFYE After Rebasing Date	Source DRI Table for Second PFY Ceiling Inflation
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3/31	7/1/02	3/31/03	Fourth Quarter 2001	3/31/04	Fourth Quarter 2002
6/30	7/1/02	6/30/03	Fourth Quarter 2001	6/30/04	Fourth Quarter 2002
9/30	7/1/02	9/30/02	Fourth Quarter 2000	9/30/03	Fourth Quarter 2001
12/31	7/1/02	12/31/02	Fourth Quarter 2000	12/31/03	Fourth Quarter 2001

In this example, when ceilings are inflated for the second PFY after the rebasing date, the ceilings will be inflated from July 1, 2002, using moving averages from the DRI table specified for the second PFY. That is, the ceiling for years ending June 30, 2004, will be the June 30, 2002, base period ceiling, adjusted by 1/2 of the moving average for the second quarter of 2002, compounded with the moving average for the second quarter of 2003. Both these moving averages will be taken from the fourth quarter 2002 DRI table.

C. The RUG-III Nursing Home Payment System shall require comparison of the prospective operating cost rates to the prospective operating ceilings. The provider shall be reimbursed the lower of the prospective operating cost rate or prospective operating ceiling.

D. Nonoperating costs. Plant or capital, as appropriate, costs shall be reimbursed in accordance with Articles 1, 2, and 3 of this subpart. Plant costs shall not include the component of cost related to making or producing a supply or service.

NATCEPs cost shall be reimbursed in accordance with 12VAC30-90-170.

E. The prospective rate for each NF shall be based upon operating cost and plant/capital cost components or charges, whichever is lower, plus NATCEPs costs. The disallowance of nonreimbursable operating costs in any current fiscal year shall be reflected in a subsequent year's prospective rate determination. Disallowances of nonreimbursable plant or capital, as appropriate, costs and NATCEPs costs shall be reflected in the year in which the nonreimbursable costs are included.

F. Effective July 1, 2001, for those NFs whose indirect operating cost rates are below the ceilings, an incentive plan shall be established whereby a NF shall be paid, on a sliding scale, up to 25% of the difference between its allowable indirect operating cost rates and the indirect peer group ceilings.

1. The following table presents four incentive examples:

Peer Group Ceilings	Allowable Cost Per Day	Difference	% of Ceiling	Sliding Scale	Scale % Difference
\$30.00	\$27.00	\$3.00	10%	\$0.30	10%
30.00	22.50	7.50	25%	1.88	25%
30.00	20.00	10.00	33%	2.50	25%
30.00	30.00	0	0		

2. Efficiency incentives shall be calculated only for the indirect patient care operating ceilings and costs. Effective July 1, 2001, a direct care efficiency incentive shall no longer be paid.

G. Quality of care requirement. A cost efficiency incentive shall not be paid for the number of days for which a facility is out of substantial compliance according to the Virginia Department of Health survey findings as based on federal regulations.

H. Sale of facility. In the event of the sale of a NF, the prospective base operating cost rates for the new owner's first fiscal period shall be the seller's prospective base operating cost rates before the sale.

I. Public notice. To comply with the requirements of § 1902(a)(28)(c) of the Social Security Act, DMAS shall make available to the public the data and methodology used in establishing Medicaid payment rates for nursing facilities. Copies may be obtained by request under the existing procedures of the Virginia Freedom of Information Act.

J. Effective July 1, 2005, the total per diem payment to each nursing home shall be increased by \$3.00 per day. This increase in the total per diem payment shall cease effective July 1, 2006. Effective July 1, 2006, when cost data that include time periods before July 1, 2005, are used to set facility specific rates, a portion of the \$3.00 per day amount identified above, based on the percentage of patient days in the provider's cost reporting period that fall before July 1, 2005, adjusted for appropriate inflation and multiplied times the provider's Medicaid utilization rate, shall be allocated to the facility specific direct and indirect cost per day prior to comparison to the peer group ceilings. For purposes of this subsection, \$1.68 of the \$3.00 shall be considered direct costs and \$1.32 of the \$3.00 shall be considered indirect costs.

K. Effective July 1, 2008, and ending after June 30, 2009, the operating rate for nursing facilities shall be reduced by 1.329%.

L. Effective July 1, 2009, through June 30, 2010, there will be no inflation adjustment for nursing facility operating rates and ceilings and specialized care operating rates and ceilings. Exempt from this are government-owned nursing facilities with Medicaid utilization of 85% or greater in provider fiscal year 2007.

M. Effective July 1, 2010, through June 30, 2012, there shall be no inflation adjustment for nursing facility and specialized care operating rates. Nursing facility and specialized care ceilings shall freeze at the same level as the ceilings for

nursing facilities with provider fiscal year ends of June 30, 2010.

N. Effective July 1, 2010, through September 30, 2010, the operating rate for nursing facilities shall be reduced 3.0% below the rates otherwise calculated.

O. Effective July 1, 2012, through June 30, 2014, the inflation adjustment for nursing facility and specialized care operating rates shall be 2.2%. Nursing facility and specialized care ceilings in effect in SFY 2012 shall be increased 3.2% in SFY 2013 and 2.2% in SFY 2014.

VA.R. Doc. No. R13-3289; Filed June 19, 2013, 11:53 a.m.

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Proposed Regulation

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

**Title of Regulation:** 14VAC5-50. Rules Governing New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities (amending 14VAC5-50-10 through 14VAC5-50-50; adding 14VAC5-50-35).

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

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

**Public Comment Deadline:** August 20, 2013.

**Agency Contact:** Raquel Pino-Moreno, Principal Insurance Analyst, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9499, FAX (804) 371-9511, or email raquel.pino-moreno@scc.virginia.gov.

**Summary:**

*The proposed amendments address the National Association of Insurance Commissioners' December 2012 adoption of the revised Model Rule for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities. The revised model adds the 2012 Individual Annuity Reserving Mortality Table (2012 IAR Mortality Table). The proposed amendments include (i) adding the 2012 IAR Mortality Table to the list of recognized mortality tables; (ii) adding definitions for Period Table, Generational Mortality Table, 2012 IAR Mortality Table, 2012 IAM Period Table, and Projection Scale G2; and (iii) establishing when and how the 2012*

*IAR Mortality Table may be used. The proposed effective date is January 1, 2014.*

AT RICHMOND, JUNE 21, 2013

COMMONWEALTH OF VIRGINIA, ex rel.  
STATE CORPORATION COMMISSION

CASE NO. INS-2013-00127

Ex Parte: In the matter of  
Amending the Rules Governing New  
Annuity Mortality Tables for Use in  
Determining Reserve Liabilities for Annuities

#### ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy may also be found at the Commission's website: <http://www.scc.virginia.gov/boi/laws.aspx>.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed amendments to rules set forth in Chapter 50 of Title 14 of the Virginia Administrative Code, entitled Rules Governing New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities, 14VAC5-50-10 et seq. ("Rules"), which amend the Rules at 14VAC5-50-10 through 14VAC5-50-50; and add a new Rule at 14VAC5-50-35.

The proposed amendments to Chapter 50 are necessary due to the National Association of Insurance Commissioners' adoption of the revised Model Rule for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities, which adds the 2012 Individual Annuity Reserving Mortality Table ("2012 IAR Mortality Table") to the list of recognized mortality tables. The proposed revisions to Chapter 50 include: (i) the addition of the 2012 IAR Mortality Table to the list of recognized mortality tables in 14VAC5-50-10, (ii) the addition of definitions for "Period Table," "Generational Mortality Table," "2012 Individual Annuity Reserving Mortality Table" and "2012 IAR Mortality Table," "2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table," and "Projection Scale G2 (Scale G2)" in 14VAC5-50-20, (iii) the addition of language in 14VAC5-50-30 that sets forth when the 2012 IAR Table shall be used, (iv) the addition of clarifying language in 14VAC5-50-40, (v) the revision of the formula in 14VAC5-50-41 that is used to calculate the mortality rate when applying the 1994 Group Annuity Reserving Table, (vi) the revision of 14VAC5-50-50 to

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provide consistency with other severability sections, and (vii) the addition of 14VAC5-50-35, which explains the application of the 2012 IAR Mortality Table.

NOW THE COMMISSION is of the opinion that the proposed amendments submitted by the Bureau to amend the Rules at 14VAC5-50-10 through 14VAC5-50-50, and to add a Rule at 14VAC5-50-35, should be considered for adoption.

Accordingly, IT IS ORDERED THAT:

(1) The proposed amendments to Rules Governing New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities, which amend the Rules at 14VAC5-50-10 through 14VAC5-50-50; and add a new Rule at 14VAC5-50-35, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose amending Chapter 50 of Title 14 of the Virginia Administrative Code, shall file such comments or hearing request on or before August 20, 2013, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>. All comments shall refer to Case No. INS-2013-00127.

(3) If no written request for a hearing on the proposal to amend Chapter 50 of Title 14 of the Virginia Administrative Code is received on or before August 20, 2013, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may amend the Rules.

(4) AN ATTESTED COPY hereof, together with a copy of the proposal to amend rules, shall be sent by the Clerk of the Commission to the Bureau in care of Deputy Commissioner Douglas C. Stolte, who forthwith shall give further notice of the proposal to amend rules by mailing a copy of this Order, together with the proposal, to all life insurers, burial societies, fraternal benefit societies and qualified reinsurers, as well as to all interested parties.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposal to amend rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposed amendments to the rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(7) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above.

(8) This matter is continued.

## **14VAC5-50-10. Purpose.**

The purpose of this chapter (~~14VAC5-50-10 et seq.~~) is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 Group Annuity Mortality (1983 GAM) Table, the 1983 Table "a," the Annuity 2000 Mortality Table, the 2012 Individual Annuity Reserving (2012 IAR) Mortality Table, and the 1994 Group Annuity Reserving (1994 GAR) Table.

## **14VAC5-50-20. Definitions.**

As The following words and terms when used in this chapter (~~14VAC5-50-10 et seq.~~) shall have the following meanings unless the context clearly indicates otherwise:

"1983 Group Annuity Mortality Table" and "1983 GAM Table" mean that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners (NAIC).

"1983 Table "a" means that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the ~~National Association of Insurance Commissioners~~ NAIC.

"1994 Group Annuity Reserving Table" and "1994 GAR Table" mean that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and adopted as a recognized mortality table for annuities in ~~December 1995~~ 1996 by the ~~National Association of Insurance Commissioners~~ NAIC.

"2012 Individual Annuity Mortality Period Life Table" and "2012 IAM Period Table" mean the Period Table containing loaded mortality rates for calendar year 2012. This table contains rates,  $qx^{2012}$ , developed by the Society of Actuaries Committee on Life Insurance Research.

"2012 Individual Annuity Reserving Mortality Table" and "2012 IAR Mortality Table" mean that Generational Mortality Table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates,  $qx^{2012+n}$ , derived from a combination of the 2012 IAM Period Table and Projection Scale G2, using the methodology stated in 14VAC5-50-35, and adopted as a recognized mortality table for annuities in December 2012 by the NAIC.

"Annuity 2000 Mortality Table" means that mortality table developed by the Society of Actuaries Committee on Life Insurance Research and adopted as a recognized mortality table for annuities in December 1996 by the ~~National Association of Insurance Commissioners~~ NAIC.

"Generational Mortality Table" means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a Period Table and a projection scale containing rates of mortality improvement.

"Period Table" means a table of mortality rates applicable to a given calendar year (the Period).

"Projection Scale G2" and "Scale G2" mean a table of annual rates,  $G2_x$ , of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research.

**14VAC5-50-30. Individual annuity or pure endowment contracts.**

A. Except as provided in subsections B and C of this section, the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1979.

B. Except as provided in subsection C of this section, either the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.

C. Except as provided in subsection D of this section, the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for ~~an~~ any individual annuity or a pure endowment contract issued on or after January 1, 1999.

D. Except as provided in subsection E of this section, the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2014.

E. The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
2. Settlements involving similar actions such as workers' compensation claims; or
3. Settlements of long-term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

**14VAC5-50-35. Application of the 2012 IAR Mortality Table.**

In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$$q_x^{2012+n} = q_x^{2012} (1 - G2_x)^n$$

The resulting  $q_x^{2012+n}$  shall be rounded to three decimal places per 1,000 (e.g., 0.741 deaths per 1,000). Also, the

rounding shall occur according to the formula above, starting at the 2012 Period Table rate.

For example, for a male age 30,  $q_x^{2012} = 0.741$ .

$q_x^{2013} = 0.741 * (1 - 0.010) ^ 1 = 0.73359$ , which is rounded to 0.734.

$q_x^{2014} = 0.741 * (1 - 0.010) ^ 2 = 0.7262541$ , which is rounded to 0.726.

A method leading to incorrect rounding would be to calculate  $q_x^{2014}$  as  $q_x^{2013} * (1 - 0.010)$ , or  $0.734 * 0.99 = 0.727$ . It is incorrect to use the already rounded  $q_x^{2013}$  to calculate  $q_x^{2014}$ .

**14VAC5-50-40. Group annuity or pure endowment contracts.**

A. Except as provided in subsections B and C of this section, the 1983 GAM Table, 1983 Table "a," and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or a pure endowment purchased on or after July 1, 1979, under a group annuity or pure endowment contract.

B. Except as provided in subsection C of this section, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or a pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract.

C. The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or a pure endowment purchased on or after January 1, 1999, under a group annuity or pure endowment contract.

**14VAC5-50-41. Application of the 1994 GAR Table.**

In using the 1994 GAR Table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n \quad q_x^{1994+n} = q_x^{1994} (1 - AA_x)^n$$

where the  $q_x^{1994}$ 's  $q_x^{1994}$  and  $AA_x$ 's  $AA_x$  are as specified in the 1994 GAR Table.

**14VAC5-50-50. Severability.**

If any provision of this chapter (~~14VAC5-50-10 et seq.~~), or ~~the its application thereof~~ to any person or ~~circumstances~~ circumstance is for any reason held to be invalid by a court, the remainder of ~~the this~~ chapter and the application of ~~such provision the provisions~~ to other persons or circumstances shall not be affected ~~thereby~~.

V.A.R. Doc. No. R13-3704; Filed June 24, 2013; 3:31 p.m.



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# Regulations

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## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

#### Final Regulation

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

**Titles of Regulations:** 20VAC5-10. In General (amending 20VAC5-10-20).

20VAC5-200. Public Utility Accounting (amending 20VAC5-200-21, 20VAC5-200-40) .

20VAC5-201. Rules Governing Utility Rate Applications and Annual Informational Filings (amending 20VAC5-201-10).

20VAC5-202. Regulations Governing the Functional Separation of Incumbent Electric Utilities under the Virginia Electric Utility Restructuring Act (amending 20VAC5-202-10, 20VAC5-202-20, 20VAC5-202-30, 20VAC5-202-50; repealing 20VAC5-202-40).

20VAC5-304. Rules Governing Cost/Benefit Measures Required for Demand-Side Management Programs (amending 20VAC5-304-40).

20VAC5-312. Rules Governing Retail Access to Competitive Energy Services (amending 20VAC5-312-20, 20VAC5-312-50, 20VAC5-312-90).

20VAC5-314. Regulations Governing Interconnection of Small Electrical Generators (amending 20VAC5-314-10).

20VAC5-320. Regulations Governing Transfer of Transmission Assets to Regional Transmission Entities (amending 20VAC5-320-10, 20VAC5-320-20).

20VAC5-403. Rules Governing Small Investor-Owned Telephone Utilities (amending 20VAC5-403-50, Appendix A).

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

**Effective Date:** July 1, 2013.

**Agency Contact:** Glenn P. Richardson, Esq., Senior Counsel, Office of General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9671, FAX (804) 371-9211, or email glenn.richardson@scc.virginia.gov.

**Summary:**

*The State Corporation Commission is taking regulatory action to amend its regulations to reflect certain internal, organizational changes within the commission, effective November 16, 2011, including the elimination of the*

*Division of Economics and Finance and the renaming of the Division of Public Utility Accounting, which is now known as the Division of Utility of Accounting and Finance. In addition, regulations are amended to reflect changes in the Code of Virginia enacted by the General Assembly and to repeal obsolete regulations and schedules relating to electric utility restructuring and functional separation that are no longer necessary. Finally, the regulations are amended to bring them into compliance with the requirements of the Virginia Register Form, Style, and Procedure Manual. The substantive contents of the regulations are not changed. Issues contained within these regulations, which were previously addressed in proceedings before the commission, are not being reopened for consideration.*

AT RICHMOND, JUNE 18, 2013

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2013-00016

Ex Parte: In the matter of amending regulations

#### ORDER AMENDING REGULATIONS

On March 13, 2013, the State Corporation Commission ("Commission") issued an Order Initiating Rulemaking Proceeding in this docket for the purpose of amending numerous regulations adopted by the Commission pursuant to § 12.1-13 of the Code of Virginia ("Code"), as well as various statutes in Title 56 of the Code. These regulations are codified in Title 20 of the Virginia Administrative Code ("VAC").

The Commission's Order Initiating Rulemaking Proceeding proposed amendments to the regulations to: (1) recognize certain internal organizational changes, effective November 16, 2011, which eliminated the Division of Economics and Finance as a separate division within the Commission and renamed the Division of Public Utility Accounting, which is now known as the Division of Utility Accounting and Finance, (2) correct out-dated references to statutes in the Code of Virginia ("Code") that have been renamed or repealed, as well as remove obsolete rules and schedules that are no longer required, and (3) bring the regulations into compliance with the Virginia Register Form, Style and Procedures Manual issued by the Virginia Code Commission. The regulations that the Commission proposed to modify included 20VAC5-10-20, 20VAC5-200-21, 20VAC5-200-40, 20VAC5-201-10, 20VAC5-202-10, 20VAC5-202-20, 20VAC5-202-30, 20VAC5-202-40, 20VAC5-202-50, 20VAC5-304-40, 20VAC5-312-20, 20VAC5-312-50, 20VAC5-312-90, 20VAC5-314-10, 20VAC5-320-10, 20VAC5-320-20, 20VAC5-403-50, and 20VAC5-403, Appendix A.

Interested persons were given the opportunity to comment or request a hearing on the proposed regulations. Appalachian Power Company ("APCo") filed a letter with the Commission on April 29, 2013, stating that it "has no comments on the

specific changes" to the regulations proposed by the Commission. However, APCo further stated that its "silence on the proposed rule changes proposed in this docket should not be interpreted as waiving or withdrawing any comments [APCo] made in Case No. PUE-2012-00043."<sup>1</sup> No other person filed comments on the proposed changes to the regulations, nor did anyone request a hearing in this matter.

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that the proposed revisions to the regulations set forth in the Commission's Order Initiating Rulemaking Proceeding should be adopted with one minor modification. In 20VAC5-202-10, the word "implement" was pluralized to correct the grammar in the regulation. Otherwise, the Commission adopts the rules and regulations as published originally.

Accordingly, IT IS ORDERED THAT:

(1) The regulations appended hereto as Attachment 1 are hereby adopted effective July 1, 2013.

(2) A copy of this Order and the rules adopted herein shall be forwarded promptly to the Register of Regulations for publication in the Virginia Register of Regulations.

(3) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY hereof, without attachments, shall be sent by the Clerk of the Commission to Anthony Gambardella, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1550, Richmond, Virginia 23219; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and Divisions of Information Resources, Energy Regulation, Utility Accounting and Finance, and Communications.

<sup>1</sup> Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: In the matter of revising the rules of the State Corporation Commission governing utility rate applications by electric utilities subject to the Virginia Electric Utility Regulation Act, Case No. PUE-2012-00043, Doc. Cont. Cen. No. 120520119, Order Initiating Proceeding (May 10, 2012).

**20VAC5-10-20. ~~Rule governing utility~~ Utility customer deposit requirements.**

Each utility may require deposits from customers to protect against uncollectible accounts. The maximum amount of any deposit shall not exceed the equivalent of the customer's estimated liability for two months usage. At the request of the commission, any public utility which bills in advance for any part of its services, yet requires a deposit as herein authorized, must justify the requirement as being reasonably necessary to protect against uncollectibles from its customers.

Each utility shall be liable for interest on deposits held longer than 90 days, to accrue from the date the deposit is made until it has been refunded, or until a reasonable effort

has been made to effect refund. All investor-owned utilities will pay interest on deposits at a rate established annually. The interest rate for such deposits in a given year will be established in December of the preceding year to equal the average of the one year Constant Maturity Treasury rate for September, October, and November of the preceding year. Nonprofit utilities that are owned by their customers will pay 75% of the above described interest rate. The commission's Director of ~~Economics~~ Utility Accounting and Finance shall notify utilities in December of each year of the rate prevailing for the ensuing year. At the option of each customer making a security deposit, each utility shall annually make either direct payment to the customer of all accrued interest, or shall credit same to the customer's account.

Customer deposits may be refunded by a utility at any time. Residential customers' deposits should not be held longer than one year and all other deposits should not be held longer than two years provided the customer has established satisfactory credit during that period.

Whenever a utility requires a deposit from any residential customer, the customer shall be permitted to pay it in three consecutive equal monthly installments whenever the total amount of the required deposit exceeds the sum of \$40. However, each utility shall have the discretion to allow payment of any deposit (more or less than \$40 total) over a longer period of time to avoid undue hardship.

**20VAC5-200-21. ~~Rules governing streamlined~~ Streamlined rate proceedings and general rate proceedings for electric cooperatives subject to the State Corporation Commission's rate jurisdiction.**

A. Nothing in ~~these rules~~ this section shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.

B. All streamlined or general rate applications for jurisdictional electric distribution cooperatives ("cooperatives" or "applicants") shall be subject to the following ~~rules~~ requirements:

1. Pursuant to § 56-235.4 of the Code of Virginia and the exceptions stated therein, the regulated operating revenues of a cooperative shall not be increased more than once within any 12-month period. However, streamlined rate relief may become effective in less than 12 months after a preceding increase provided that regulated base operating revenues are not increased more than once in any calendar year.

2. An applicant may select any test period it wishes to use to support its application.

3. Any increase in revenues under ~~these rules~~ this section shall be allocated in accordance with a properly designed cost of service study.

4. A cooperative which has outstanding wholesale power cost riders which reflect permanent changes in power costs approved by a regulatory agency shall adjust its base rates

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to reflect such changes at the same time it increases its rates in a rate application.

5. a. Except as otherwise provided herein, all applications for rate relief shall be filed in the original and 15 copies with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

b. Where a filing contains information that the applicant claims to be confidential, the filing may be made under seal provided it is accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall, however, be immediately available to the commission staff for internal use at the commission.

Filings containing confidential (or redacted) information shall be so stated on the cover of the filing, and the precise portions of the filing containing such confidential (or redacted) information, including supporting material, shall be clearly marked within the filing.

6. An electric cooperative intending to file a rate application shall notify the State Corporation Commission ("commission") and all parties of record appearing in the cooperative's last rate case at least 60 days in advance of the filing of the application. Also, public notice of the intent to file a rate application shall be provided 60 days in advance of the filing of said application to all of the cooperative's customers, using any of the methods of publication set out in subdivision C 12 of this section.

7. The commission retains the right to waive any or all parts of ~~these rate case rules~~ this section for good cause shown.

8. An application shall not be deemed filed under § 56-238 of the Code of Virginia unless it is in full compliance with ~~these rules~~ this section.

C. An applicant may file a complete application for streamlined rate relief provided the following limitations are met:

1. The increase in total operating revenues as calculated in column (5) of Schedule 3 of Appendix A, included herein, is not more than the test period increase in the Consumer Price Index ("CPI"), or 5.0%, whichever is less. The CPI shall be defined as the Consumer Price Index for all Urban Consumers (CPI-U) for all items, as estimated by the U.S. Department of Labor, Bureau of Labor Statistics, and published in its Summary Data from the Consumer Price Index News Release, or its successor. As calculated in this publication, the percentage change in the CPI-U for a test year will be the index for the last month of the test year divided by the index for the same month one year prior, minus one, multiplied by 100; and

2. Earnings after the proposed increase must not produce financial ratios which exceed the level approved by the commission in the applicant's most recent general rate case.

Subject to the ~~rules~~ provisions set forth below, a cooperative which files an application for streamlined rate relief may petition the commission requesting that its rates be made permanent no less than 30 days from the date the application is deemed complete and filed with the commission if there are insufficient customer objections to the application or if the commission does not suspend the proposed increase and convene a hearing.

3. A cooperative filing a rate application under the streamlined rate procedure shall not:

a. Increase rates by more than the increase in the test period CPI or 5.0% (whichever is less) of adjusted Virginia jurisdictional operating revenues;

b. Request earnings, after the proposed increase, which produce financial ratios that exceed those approved by the commission in the applicant's most recent general rate case;

c. Propose revisions to its terms and conditions of service; or

d. Propose revisions to its rate structure as part of its application.

4. The commission may, on its own motion, suspend a cooperative's proposed rate increase and tariff revisions pursuant to § 56-238 of the Code of Virginia and may convene a hearing on the cooperative's streamlined application.

5. The commission may suspend a cooperative's proposed tariff revisions and increase in rates and shall schedule a hearing thereon if the lesser of 150 or 5.0% of the customers or other persons within a class and subject to a change in a rate, toll, or charge object to the proposed revision or increase in a rate or if the lesser of 150 or 5.0% of the customers or consumers or other persons subject to such rate, toll or charge of a cooperative object to the proposed rate or tariff revision.

6. The commission may, in its discretion, suspend an electric cooperative's rate increase and proposed tariff revisions in a streamlined rate proceeding on the motion of its own staff, on the motion of the Virginia Attorney General's Division of Consumer Counsel, or on the motion of any person subject to such change who requests a hearing and states a substantive reason why a hearing is necessary.

7. The requested rate increase for streamlined rate relief shall be supported by a fully adjusted financial status statement (Schedule 3 of Appendix A included herein).

8. Adjustments to test year cost of service shall be limited to the amount of increase or decrease that will be in effect during the rate year.

9. A cooperative shall not file more than three consecutive applications for streamlined rate relief; nor shall there lapse more than five years since the later of the date of the final order or the effective date of rates specified in the final order in the applicant's last general rate case when filing an application for streamlined rate relief.

10. An application filed under the streamlined rate procedure shall include:

- a. The name and post office address of the applicant and the name and post office address of counsel of record, if any.
- b. A brief narrative statement describing the change in rates and tariff revisions and explaining the need for a change in rates and tariff revisions. This statement shall include a description of the actions taken by the cooperative to advise its membership of the change in rates and contents of its application.
- c. A copy of the resolution calling for a change in rates adopted by the Board of Directors of the cooperative.
- d. A copy of the completed notice given to the public by the cooperative, including a description of the method of publication used.
- e. Schedules 1 through 9 of Appendix A included herein.

11. Public notice of the increase and tariff revisions shall be completed 30 days in advance of the date the cooperative files its application for revised rates with the commission. Actual proof of public notice shall be furnished to the commission as part of the rate application.

12. The public notice of the increase and tariff revisions in an application for streamlined rate relief may be given by:

- a. Direct mailing to each customer;
- b. Publication in Rural Cooperative Living magazine, or the cooperative's member publication;
- c. Newspapers of general circulation in the area served;
- d. Any combination of these methods; or
- e. Any other method of publication authorized by the commission.

13. A copy of the notice shall be served on the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in the counties having alternative forms of government) in the state in which the cooperative offers service, and on the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternative forms of government) in the state in which the cooperative offers service and upon the Division of Consumer Counsel, Office of the Attorney General. Service shall be made by either personal delivery or first class mail, postage prepaid, to the customary place of business of the person served or to his residence.

14. The public notice shall, at a minimum, include the following information:

- a. The amount of the total increase in revenues, both in percentages and dollar amounts;
- b. The percentage increase being applied to each of the cooperative's rate schedules;
- c. The identity of all wholesale power cost riders to be rolled-in to base rates;
- d. The locations where copies of the information required to be filed with the commission can be reviewed;
- e. The date the application will be delivered to the commission;
- f. A notice that any person subject to the change or changes proposed by the cooperative has the right to request a hearing within 30 days of the application's delivery to the commission;
- g. A notification that requests for hearing should be directed to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218;
- h. A statement advising that the commission may convene a hearing, and if a hearing is held, the commission may order rate relief, redesign rates or adopt tariff revisions which differ from those appearing in the cooperative's application;
- i. A statement advising the public that if the lesser of 150 or 5.0% of the customers or other persons within a class and subject to a change in a rate, toll, or charge do not request a hearing, and if the lesser of 150 or 5.0% of the customers or consumers or other persons subject to such rate, toll or charge of the cooperative do not object to a rate change or tariff revision, the cooperative may petition the commission to make rates permanent without hearing within 30 days after the application is filed with the commission; and
- j. A statement advising the public of the cooperative's proposed effective date for its new rates.

15. If the commission determines that a hearing on the application for streamlined rate relief is required, then the commission shall issue a procedural order which, among other things, shall specify the date by which the cooperative shall file with the Clerk of the Commission an original and 15 copies of any direct testimony the cooperative intends to rely on in support of its application, together with the remaining schedules set forth in Appendix A. That ~~Order~~ order shall specify such additional notice of the hearing to the electric cooperative's members that the commission deems appropriate.

D. 1. A cooperative seeking (i) an increase that produces financial ratios in excess of those allowed in the applicant's most recent general rate case; (ii) an increase in jurisdictional adjusted operating revenues of more than the test period increase in the CPI (as defined in subdivision 1 of subsection C of this section); (iii) revision of its terms and conditions of service; or (iv) to redesign or restructure its rates shall file an

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original and 15 copies of a general rate application with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218.

2. An application seeking a general rate increase shall include:

a. The name and post office address of the applicant and the name and post office address of counsel of record, if any.

b. A brief narrative statement describing the change in rates and tariff revisions and explaining the need for a change in rates and tariff revisions. This statement shall include a description of the actions taken by the cooperative to advise its membership of the change in rates and contents of the rate application.

c. A copy of the resolution calling for a change in rates adopted by the cooperative's Board of Directors.

d. All direct testimony which the cooperative intends to rely on in support of its rate application.

e. Exhibits consisting of the Schedules 1 through ~~13~~ 14, found in Appendix A included herein. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in Appendix A included herein and the following general instructions:

(1) Attach a table of contents to the cooperative's application, including exhibits.

(2) The applicant shall be expected to verify the accuracy of all data and calculations contained in and pertaining to every exhibit submitted, as well as support any adjustments, allocations or rate design upon which it relies.

(3) Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. (Leave Blank)

Witness: (Initials)

Statement or Schedule Number

The first page of all exhibits shall contain a caption which describes the subject matter of the exhibit.

(4) The required accounting and statistical data shall include three copies of all work papers and other information necessary to ensure that the items, statements and schedules found in the application are not misleading.

f. Exhibits consisting of additional schedules may be submitted with the cooperative's direct testimony. Such schedules shall be identified as Schedule ~~14~~ 15 (this exhibit may include numerous subschedules labeled ~~14A~~ 15A et seq.) and shall conform to the general instructions contained in subdivision 2e of subsection D of this section.

g. The commission shall prescribe the general notice to be given to the public and the date by which such notice shall be completed in its procedural order.

h. The applicant shall serve a copy of the information required in subdivisions 2a through 2c of subsection D of this section upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county or (equivalent officials in counties having alternative forms of government) in the state affected by the proposed increase and upon the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternative forms of government) in the state affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained by such official at no cost by making a request thereof orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General in Virginia. All such service specified by this ~~rule~~ section shall be made either by (i) personal delivery or (ii) first class mail, to the customary place of business or to the residence of the person served.

~~E. Any cooperative filing a rate application pursuant to § 56-582 of the Virginia Electric Utility Restructuring Act (§ 56-576 et seq. of the Code of Virginia) shall include the schedules required for a general rate case, as set forth in subsection D of this section, as well as Schedules 15 through 19.~~

~~F. E.~~ Rate reductions and tariff revisions filed pursuant to § 56-40 of the Code of Virginia shall be filed with the commission's Division of Energy Regulation and shall include the following:

1. A descriptive statement of and justification for the tariff revision;
2. Load data if applicable;
3. A certified excerpt from the minutes of the cooperative's Board of Directors, wherein the Board approved the tariff revision;
4. Identification of all customers that may be eligible for the tariff revision;
5. A revenue impact study; and
6. An affidavit by the cooperative's manager that the proposed tariff revision affects no increase in rates.

~~G. These rules do~~ F. This section does not limit the commission staff or parties other than the applicant from raising new issues not addressed by the applicant for commission consideration.

~~H. G.~~ Requests for temporary increases in rates filed pursuant to § 56-245 of the Code of Virginia shall include Schedules 1, 2 and Columns (1) through (5) of Schedule 3.

~~I. H.~~ Failure to comply with the rules governing streamlined rate applications or general rate applications this section may result in dismissal of the application, or may subject the cooperative to such other actions as the commission deems appropriate, including, but not limited to, prohibiting a cooperative from filing an application for streamlined rate relief for a period of time specified by the commission.

APPENDIX A. SCHEDULES REQUIRED FOR A STREAMLINED OR GENERAL RATE APPLICATION

Schedule Number	Streamlined Rate Proceeding Schedules
1	Comparative Balance Sheets
2	Comparative Income Statements
3	Financial Status Statement
4A and B	Detail of Ratemaking Adjustments
5A and B	Proposed Rates and Tariffs and Revenue Allocation
6	Sample Billing
7	Class Cost of Service Study
8	Capital Structure
9	Affiliate Services

Schedule Number	General Rate Proceeding Schedules
1	Comparative Balance Sheets
2	Comparative Income Statements
3	Financial Status Statement
4A and B	Detail of Ratemaking Adjustments
4A <u>5A</u> and B	Proposed Rates and Tariffs and Revenue Allocation
6	Sample Billing
7	Class Cost of Service Study
8	Capital Structure
9	Affiliate Services
10	Net Original Cost Rate Base
11	Working Papers for Ratemaking Adjustments
12	Revenue and Expense Variance Analysis
13	Jurisdictional Allocation
14A, B, and C	<del>Reserved for Additional Exhibits</del> <u>Functional Unbundling</u>
<u>15</u>	<u>Reserved for Additional Exhibits</u>

Schedule 1 — Comparative Balance Sheets

Instructions: Provide a publicly available comparative balance sheet for the test period and the corresponding 12-month period immediately preceding the test period for the applicant.

Schedule 2 — Comparative Income Statements

Instructions: Provide a publicly available comparative income statement covering the test period and 12-month period immediately preceding the test period for the applicant.

Schedule 3 — Financial Status Statement

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Instructions: Use the format of the schedule identified as Schedule 3 in this Appendix.

Adjustments in Column (2) reflect any financial differences between Generally Accepted Accounting Principles (GAAP) and ratemaking accounting as prescribed by the State Corporation Commission. An example of such an adjustment would include, but would not be limited to, the reclassification of capital leases to operating leases. Each Column (2) adjustment shall be separately identified and shown using the format prescribed for Schedule 4A and 4B.

Column (4) shall reflect total nonjurisdictional operations. Jurisdictional allocation factors used to determine nonjurisdictional business in Column (4) amounts shall be fully supported and explained in Schedule 13 for general rate filings.

Each Column (6) adjustment shall be separately identified and shown in Schedule 4A and 4B. In a streamlined rate proceeding, adjustments reflected in Column (6) of Schedule 3 which do not incorporate ratemaking treatment approved by the commission in the utility's last general rate case shall be identified as new proposed adjustments in Schedule 4A and 4B.

Riders reflected on line 4 shall be separately listed to include a line for each rider in effect during the test year or projected for the rate year. The amount of other income and other expense shown in Column (5), lines 20 and 23, shall be the current amount recognized as jurisdictional in the applicant's last general rate case. Amounts reflected on line 33 shall be actual cash receipts.

Lines (29), (30), (31), and (32) shall be based on the following definitions:

Line 29.

$$\text{TIER} = \frac{\text{Total Margins (Line 24) + Interest on Long-Term Debt (Line 21)}}{\text{Interest on Long-Term Debt (Line 21)}}$$

Line 30.

$$\text{DSC} = \frac{\text{Total Margins (Line 24) + Depreciation and Amortization Expense (Line 11) + Interest on Long-Term Debt (Line 21)}}{\text{Total Principal Payments + Total Long-Term Interest Payments}}$$

Line 31.

$$\text{Rate of Return on Rate Base} = \frac{\text{Operating Margins Adj. (Line 18)}}{\text{Total Rate Base (Line 28)}}$$

Line 32.

$$\text{Rate of Return on Margins and Equities} = \frac{\text{Total Margins (Line 24)}}{\text{Total Margins and Equity Capitalization (Schedule 8)}}$$

## Schedules 4A and 4B — Detail of Ratemaking Adjustments

Instructions: Use format of the schedule identified as Schedule 4A and 4B to this Appendix.

Each adjustment shall be numbered sequentially and listed under the appropriate description category (Base Rate Revenue, Fuel-WPCA Revenue, Purchased Power, etc.). The impact on cost of service from each adjustment shall be detailed in Columns (1) through (16).

Each ratemaking adjustment shall be fully explained in a supporting subschedule 4B to this schedule.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 11 for general rate filings.

## Schedule 5A and 5B — Proposed Rates and Tariffs, and Revenue Allocation by Class

### Schedule 5A Instructions:

Provide a copy of each tariff sheet with the revisions the cooperative proposes to implement. For general rate applications, provide a copy of all tariffs and Terms and Conditions of Service Sheets proposed for revision containing the revised language.

## Schedule 5B Instructions:

Provide a class revenue allocation analysis showing, by class, the present revenue recovered from each class, the proposed increase in revenue to be recovered from each class, the total proposed revenue to be recovered from each class, and the percentage of increase in total revenue to be recovered from each class.

## Schedule 6 Sample Billing

Instructions: Provide a sample billing analysis showing the effect on customers of the proposed tariff changes at various levels of consumption, for all classes of service.

## Schedule 7 — Class Cost of Service Study

### Instructions:

A. Each streamlined rate application shall include a copy of the cost of service study used to determine the allocation of revenues to each class. The cost of service study shall be based on per books data which is no more than five years old. Each general filing shall include a copy of the cost of service study used to allocate the increase or to adjust rate design. The data used in a cost of service study submitted in a general rate case shall use the same test period as used in the cooperative's general rate application.

B. Each cost of service study shall consist of the following schedules:

1. For multi-state cooperatives, provide total system rate base, revenue and operation and maintenance expenses by account number, or major account group showing separation between Virginia and nonjurisdictional operations.
2. Provide a jurisdictional financial status statement in the format of Schedule 3, column (5) of Appendix A for each customer class and the return provided by these classes.
3. For all service schedules, present the unit cost per kilowatt, kilowatt hour, and customer resulting from the cost study. Include the kilowatt hours, demand, and number of customers, as well as the total cost for each component by class and the allocated rate base by class, as support for the unit costs derived.
4. If directed by the commission, the cooperative shall collect and maintain separate expense, rate base, and revenue data on nonjurisdictional consumers within Virginia.
5. For all service classes, provide a schedule of consumers by service class indicating the total number of customers in the class and the number of nonjurisdictional consumers in Virginia in the class.

Nonjurisdictional consumers in Virginia include government agencies: federal, state, local, and regional government authorities. If there are nonjurisdictional consumers in any class, this schedule must be accompanied by a list of all such nonjurisdictional consumers by service class and their usage characteristics.

6. Provide a short narrative describing the cost of service study methodology employed. This narrative shall include the following information:
  - (a) Identification and description of the classification used to assign rate base as demand, energy, or customer related. Specifically, include the classification methodology used to differentiate between demand and customer components of distribution plant; and the customer classification used in the study, i.e., minimum system, minimum size, zero intercept, etc.
  - (b) Identification of the allocation methodology used for assigning rate base, revenue, and expenses to customer classes. For demand allocation method, e.g., average and excess, noncoincident peak; customer allocation method, e.g., number of customers, weighted customers, etc.
  - (c) Provide a table showing the kilowatts, kilowatt hours, number of customers allocated to each class, including the derivation of the demand, energy, and customer allocators for each class.
7. Provide a list of classification and allocation factors used.
8. Provide a copy of the actual study by account or primary account. The primary accounts shall identify the secondary accounts included by account number. Indicate which allocators and classifiers were used to assign each account.

## Schedule 8 — Capital Structure and Cost of Debt Statement and Supporting Schedules

Instructions: Use the format of the schedule identified as Schedule 8 in this Appendix.

Column (1) shall reflect the per books capital structure at the end of the test year. Data in Column (1) shall be compatible with the applicant's publicly available financial statements. Adjustments in Column (3) reflect any financial differences between Generally Accepted Accounting Principles and ratemaking accounting as prescribed by the commission. Each Column (3) adjustment shall be separately identified in a supporting schedule, if not already identified in Schedule 4A or 4B.

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# Regulations

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Schedules shall be provided to support the amounts and cost rates of short- and long-term debt in Columns (4) and (6), respectively, and the adjusted amounts and cost rates in Columns (8) and (10), respectively. Each issue of long-term debt shall be listed with its corresponding interest rate, date of issue, maturity, and lending institution(s) or other source(s). Short-term debt shall be listed with a high, low, ending, and average balance for each month, a weighted average interest rate for each month, and the name of the lending institution(s) or other source(s).

## Schedule 9 — Affiliate Services

Instructions: For purposes of this schedule, affiliate services shall be defined to include those services between regulated and competitive divisions of an incumbent utility. If any portion of the required information has been filed with the commission as part of an applicant's Annual Report of Affiliate Transactions, the applicant may reference such report clearly identifying what portions of the required information are included in the Annual Report of Affiliate Transactions.

Provide a narrative description of each type of affiliated service received or provided during the test period.

Provide a summary of affiliate transactions detailing costs by function for each month of the test period. Show the final Uniform System of Account distribution of all costs billed to or by the regulated entity by month for the test period.

Identify all amounts billed to an affiliate and then billed back to the regulated entity.

Cost records and market analyses supporting all affiliated charges billed to or by the regulated entity/division shall be maintained and made readily available for commission staff review. This shall include supporting detail of costs (including the return component) incurred by the affiliated interest rendering the service and the allocation methodology. In situations when the pricing is required to be the higher (lower) of cost or market and market is unavailable, note each such transactions and have data supporting such a finding available for commission staff review.

If affiliate charges are booked per a pricing mechanism other than that approved by the commission for ratemaking purposes, the regulated entity shall provide a reconciliation of books to commission-approved pricing, including an explanation of why the commission-approved pricing is not used for booking purposes.

## Schedule 10 — Net Original Cost Rate Base

Instructions: Use the format of the schedule identified as Schedule 10 in this Appendix.

Adjustments in Column (2) reflect any financial differences between GAAP and ratemaking accounting as prescribed by the State Corporation Commission. Each Column (2) adjustment shall be separately identified and reflected using the format prescribed for Schedule 4A and 4B.

Column (4) shall reflect total nonjurisdictional business. Allocation factors used to determine nonjurisdictional business in Column (4) shall be fully supported in Schedule 13.

Each Column (6) adjustment shall be separately identified and reflected in Schedule 4A and 4B. In a streamlined rate proceeding, adjustments reflected in Column (6) of Schedule 3 which do not incorporate the ratemaking treatment approved by the commission in the utility's last general rate case shall be separately identified as new proposed adjustments in Schedule 4A and 4B.

## Schedule 11 — Working Papers for Ratemaking Adjustments

Instructions: Provide detailed workpapers and supporting schedules of all proposed adjustments. Each supporting document shall identify the origin of the data shown. Also, indicate whether data is actual or estimated. Working papers shall be numbered, indexed and tabbed for each adjustment. Two copies shall be filed with the Division of ~~Public~~ Utility Accounting and Finance, and one copy of the working papers shall be filed with the Division of Energy Regulation.

## Schedule 12 — Revenue and Expense Variance Analysis

Instructions: The cooperative shall quantify jurisdictional operating revenues and system operating and maintenance ("O&M") expenses by primary account during the test period and the preceding 12 months. Also, provide jurisdictional sales volumes by customer class for the test period and the preceding 12 months.

The cooperative shall provide a detailed explanation of all jurisdictional revenue and system expense increases and decreases of more than 10% during the test period compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than two-hundredths of 1.0% (.0002) of total O&M expenses for all cooperatives with total operating expenses exceeding \$50 million, and five hundredths of 1.0% (.0005) of total operating expenses for cooperatives with total operating expenses below \$50 million.

## Schedule 13 — Jurisdictional Allocation

Instructions: Provide summary schedules by primary account reflecting all revenue, expense, and rate base items allocated to the Virginia jurisdiction. If directed by the commission, this schedule shall include allocations relating to nonjurisdictional

Virginia consumers as well as out-of-state operations. Provide working papers to support all calculated amounts, including the development of allocation factors.

Provide a narrative explanation and justification of the allocation methodology used. Discuss any changes in the applicant's operations which materially affect any allocation factor.

#### Schedule 14 — Reserved for Additional Exhibits

This schedule is reserved for additional exhibits presented by the applicant and shall be labeled 14A et seq.

#### Schedule 14A, 14B, and 14C - Functional Unbundling

Instructions: Use the format of the schedule identified as Schedule 14A, 14B, and 14C in this Appendix.

Provide cost of service studies that identify the costs associated with the functional areas of generation (production), transmission, distribution, and other.

Provide cost breakouts for subcomponents of functional areas such as primary and secondary distribution, metering, billing, and maintenance. Report cost functions and subcomponents on summary sheets by both system and class.

#### Schedule 15 - Reserved for Additional Exhibits

This schedule is reserved for additional exhibits presented by the applicant and shall be labeled 15A et seq.

### **APPENDIX B. ELECTRIC UTILITY RESTRUCTURING ACT ADDENDUM FOR ELECTRIC COOPERATIVES**

#### Schedule 15 — Balance Sheet — Projected

Instructions: Provide projected balance sheets for each calendar year through 2007. Projections should be consistent with amounts for Rural Utility Service (RUS) financing in RUS Form 325A. Other financial forecasts that extend through 2007 may be used if RUS projections cease to remain applicable. Any deviations from the assumption used for RUS Form 325A should be noted and fully explained.

#### Schedule 16 — Income Statements — Projected

Instructions: Provide projected income statements for each calendar year through 2007. Projections should be consistent with amounts for RUS financing in RUS Form 325A. Other financial forecasts that extend through 2007 may be used if RUS projections cease to remain applicable. Any deviations from the assumption used for RUS Form 325A should be noted and fully explained.

#### Schedule 17 — Capital Structure — Projected

Instructions: Provide Capital Structure and Cost of Debt Statements for each calendar year through 2007. Projections should be consistent with amounts for RUS financing in RUS Form 325A. Other financial forecasts that extend through 2007 may be used if RUS projections cease to remain applicable. Any deviations from the assumption used for RUS Form 325A should be noted and fully explained.

#### Schedule 18 — Detail of Restructuring Act Adjustments

Instructions: This schedule shall be filed in addition to Schedule 4.

Use format of the schedule identified as Schedule 4A and 4B to this Appendix.

Each adjustment shall be numbered sequentially and listed under the appropriate description category (operating revenues, interest expense, common equity capital, etc.).

Restructuring Act adjustments shall reflect an annual going forward year level of revenues, expenses, and rate base consistent with § 56-582 of the Code of Virginia. Schedule 9 shall reflect these adjustments in two additional columns after Column (5). Column (6) shall be titled Restructuring Act Adjustments.

Provide an explanation why some costs (by function) remain at a test year level. Additionally, describe and detail how increases in productivity have been factored into each cost whether adjusted or remaining at a test year level.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 19.

#### Schedule 19 — Workpapers for Restructuring Act Adjustments

Instructions: This schedule shall be filed in addition to Schedule 11.

Provide detailed workpapers and supporting schedules of earnings test as well as ratemaking adjustments. Each supporting document shall identify the origin of the data shown.

Include 10 years actual and budgeted historical data for each adjustment. For projected adjustment amount, identify budget information as preliminary or final. If preliminary, indicate when final budget is anticipated.

Include a narrative of budgeting methodology as well as any significant changes that have occurred during the 10 years.

# Regulations

~~Working papers shall be indexed and tabbed for each adjustment. Two copies shall be filed with the Division of Public Utility Accounting and one copy to the Division of Energy Regulation.~~

## ~~Schedule 20—Functional Unbundling~~

~~Instructions: Use the format of the schedule identified as Schedule 20 in this Appendix.~~

~~Provide cost of service studies that identify the costs associated with the functional areas of generation (production), transmission, distribution and other.~~

~~Provide cost breakouts for subcomponents of functional areas such as primary and secondary distribution, metering, billing and maintenance. Report cost functions and subcomponents on summary sheets by both system and class.~~

Schedule 3

### FINANCIAL STATUS STATEMENT PER BOOKS AND FULLY ADJUSTED FOR THE 12-MONTHS ENDING \_\_\_\_\_, \_\_\_\_

Line No.	Description	(Col. 1) Total Coopera- tive Per Books	(Col. 2) Adjust- ments Due to Rate- making Require- ments	(Col. 3) Total Coopera- tive As Adjusted	(Col. 4) Non- Virginia Juris- dictional Business	(Col. 5) Virginia Juris- dictional Business	(Col. 6) Rate- making Adjust- ments	(Col. 7) Amounts After Adjust- ments	(Col. 8) Rev- enue Require- ment	(Col. 9) Amounts After Revenue Requirement
<hr/>										
Operating Revenues										
1.	Base Rates									
2.	Fuel - WPCA									
3.	Roll in of Riders									
4.	Riders (List Separately)									
5.	Margin Stabilization									
6.	Other Electric Revenues									
7.	Total Operating Revenues									
<hr/>										
Operating Expenses										
8.	Purchased Power Expense									
9.	Margin Stabilization									
10.	Other Operation and Maintenance Expense									
11.	Depreciation and Amortization									
12.	Tax Expense - Property									

# Regulations

13.	Tax Expense - Other
14.	Total Operating Expenses
15.	Operating Margins
16.	Less: Interest on Customer Deposits

		(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	(Col. 7)	(Col. 8)	(Col. 9)
Line No.	Description	Total Coopera- tive Per Books	Adjust- ments Due to Rate- making Require- -ments	Total Coopera- tive As Adjusted	Non- Virginia Juris- dictional Business	Virginia Juris- dictional Business	Rate- making Adjust- ments	Amounts After Adjust- ments	Rev- enue Require- -ment	Amounts After Revenue Require- -ment
17.	Charitable and Educational Donations									
18.	Operating Margins Adjusted									
19.	Plus: Capital Credits Accrued									
20.	Other Income									
21.	Less: Interest on Long-Term Debt									
22.	Other Interest Expense									
23.	Other Expense									
24.	Total Margins									
	Rate Base									
25.	Net Utility Plant									
26.	Allowance for Working Capital									
27.	Other Rate Base Deductions									
28.	Total Rate Base									

# Regulations

- 29. TIER
- 30. DSC
- 31. Rate of Return on Rate Base
- 32. Rate of Return on Margins and Equities
- 33. Capital Credits Received

SCHEDULE 4A  
Page \_\_\_ of \_\_\_

## DETAIL OF RATEMAKING ADJUSTMENTS

Adj. No.	Description	(Col. 1) Operating Revenues	(Col. 2) Purchased Power Expenses	(Col. 3) Margin Stabil.	(Col. 4) Other O&M Expense	(Col. 5) Depr. & Amort.	(Col. 6) Tax Expense	(Col. 7) Other	(Col. 8) Operating Margins Adjusted	(Col. 9) Accrued Capital Credit
	Base Rate Revenues									
	Fuel - WPCA Revenue									
	Rider Revenue									
	Margin Stabilization									
	Other Electric Revenues									
	Purchased Power Exp.									
	Margin Stabilization									
	Other O&M Expense									
	Depr. & Amort.									
	Tax Expense - Property									
	Tax Expense - Other									
	Other									
	Operating Margins Adjusted									
	Capital Credits Accrued									

Other  
Income

Interest on  
Long-Term  
Debt

Other  
Interest  
Expense

Other  
Expense

Total  
Margins

---

Net Utility  
Plant

Allowance  
for Working  
Capital

Other Rate  
Base  
Deductions

Total Rate  
Base

Adj. No.	Description	(Col. 10) Other Income	(Col. 11) Interest on Long- Term Debt	(Col. 12) Other Exp. (Incl. Int. Exp.)	(Col. 13) Total Margins	(Col.14) Net Utility Plant	(Col. 15) Allowance for Working Capital	(Col. 16) Other Rate Base Deductions	(Col. 17) Total Rate Base
	Base Rate Revenues								
	Fuel - WPCA Revenue								
	Rider Revenue								
	Margin Stabilization								
	Other Electric Revenues								
	Purchased Power Exp.								
	Margin Stabilization								
	Other O&M Expense								
	Depr. & Amort.								
	Tax Expense - Property								
	Tax Expense - Other								
	Other								

# Regulations

Operating  
Margins  
Adjusted

Capital Credits  
Accrued

Other Income

Interest on  
Long-Term  
Debt

Other Interest  
Expense

Other Expense

Total Margins

Net Utility  
Plant

Allowance for  
Working  
Capital

Other Rate  
Base  
Deductions

Total Rate  
Base

Schedule 4B  
Page \_\_\_ of \_\_\_

## DETAIL OF RATEMAKING ADJUSTMENTS

Adj. No.	Description	Explanation of Adjustment
	Base Rate Revenues	
	Fuel - WPCA Revenue	
	Rider Revenue	
	Margin Stabilization	
	Other Electric Revenues	
	Purchased Power Exp.	
	Margin Stabilization	
	Other O&M Expense	
	Depr. & Amort.	
	Tax Expense - Property	
	Tax Expense - Other	
	Other	
	Operating Margins Adjusted	
	Capital Credits Accrued	
	Other Income	
	Interest on Long-Term Debt	

Other Interest Expense

Other Expense

Total Margins

Net Utility Plant

Allowance for Working Capital

Other Rate Base Deductions

Total Rate Base

SCHEDULE 8

CAPITAL STRUCTURE AND COST OF DEBT STATEMENT  
 PER BOOKS AND FULLY ADJUSTED  
 For the 12-Months Ending \_\_\_\_\_, \_\_\_\_

	(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	(Col. 7)	(Col. 8)	(Col. 9)	(Col. 10)
	Total Coope- rative Per Books	Perce- tage of Col. 1 Total	Adjust- ments Due to Rate- making Require- -ments	Total Coope- rative As Adjus- ted	Perce- tage of Col. 4 Total	Cost of Col. 4 Debt	Rate- making Adjust- ments	Amount After Adjust- ments	Perce- tage of Col. 8 Total	Cost of Col. 8 Debt
1. Short- Term Debt										
2. Long- Term Debt										
3. Total Margins and Equities										
4. Other										
5. Total Capital										
6. Principal Repay- ments										
7. Accumu- lated Capital Credits Accrued										
8. Accumu- lated Capital Credits Received										

# Regulations

Schedule 10

NET ORIGINAL COST RATE BASE  
PER BOOKS AND FULLY ADJUSTED  
For the Period Ending \_\_\_\_\_, \_\_\_\_

	(Col. 1)	(Col. 2)	(Col. 3)	(Col. 4)	(Col. 5)	(Col. 6)	(Col. 7)
Line No.	Total Cooperative Per Books	Adjustments Due to Ratemaking Requirements	Total Cooperative As Adjusted	Non-Virginia Jurisdictional Business	Virginia Jurisdictional Business	Ratemaking Adjustments	Amounts After Adjustments
	Net Utility Plant						
1.							
	Electric Plant in Service						
2.							
	Completed Construction Not Classified						
3.							
	Construction Work in Progress						
4.							
	Plant Held for Future Use						
5.							
	Less: Accumulated Provision for Depreciation and Amortization						
6.							
	Total New Utility Plant						
	Allowance for Working Capital						
7.							
	Cash Working Capital: Purchased Power						
8.							
	Other O&M						
9.							
	Materials and Supplies (13-month average)						
10.							
	Deferred Fuel						
11.							
	Other Working Capital (List Separately)						
12.							
	Total Allowance for Working Capital						
	Other Rate Base Deductions						
13.							
	Customer Deposits						

- 14. Customer Advances for Construction
- 15. Other Cost Free Capital (List Separately)
- 16. Total Other Rate Base Deductions
- 17. Total Rate Base

COOPERATIVE NAME  
 DETAIL OF RESTRUCTURING ACT ADJUSTMENTS  
 REFLECTED IN COL. ( ) OF SCHEDULES — AND —

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule 18

ADJ. NO.	ADJUSTMENT	AMOUNT
	<del>OPERATING REVENUES ADJUSTMENTS</del>	
	<del>OPERATING EXPENSES ADJUSTMENTS</del>	
	<del>INTEREST ON CUSTOMER DEPOSITS ADJUSTMENTS</del>	
	<del>CHARITABLE AND EDUCATIONAL DONATIONS ADJUSTMENTS</del>	
	<del>CAPITAL CREDITS ACCRUED ADJUSTMENTS</del>	
	<del>OTHER INCOME ADJUSTMENTS</del>	
	<del>INTEREST ON LONG TERM DEBT ADJUSTMENTS</del>	
	<del>OTHER INTEREST EXPENSE ADJUSTMENTS</del>	
	<del>OTHER EXPENSE ADJUSTMENTS</del>	
	<del>ALLOWANCE FOR WORKING CAPITAL ADJUSTMENTS</del>	
	<del>UTILITY PLANT ADJUSTMENTS</del>	
	<del>COMPLETED CONSTRUCTION NOT CLASSIFIED ADJUSTMENTS</del>	
	<del>CONSTRUCTION WORK IN PROGRESS ADJUSTMENTS</del>	
	<del>PLANT HELD FOR FUTURE USE ADJUSTMENTS</del>	
	<del>ACCUMULATED DEPRECIATION AND AMORTIZATION ADJUSTMENTS</del>	
	<del>OTHER RATE BASE DEDUCTIONS ADJUSTMENTS</del>	
	<del>COMMON EQUITY CAPITAL ADJUSTMENTS</del>	

COOPERATIVE NAME  
 JURISDICTIONAL CLASS COST OF SERVICE  
 (METHODOLOGY) COST ALLOCATION STUDY

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule ~~20A~~ 14A

SYSTEM FUNCTIONAL ANALYSIS  
 CASE NO. PUE-----

Line No.	Description	System	Production	Transmission	Distribution	Other	Allocation Basis
10	Operating Revenues						
20							

# Regulations

30	Operating Expenses
40	Depreciation Expenses
50	Amortization
60	Income Taxes
70	State Income Taxes
80	Taxes Other than Income
90	
100	Total Operating Expenses
110	
120	Net Operating Income
130	
140	Adjustments to Operating Income
150	
160	Add: AFUDC
170	Less: Charitable Donations
180	Interest Expense - Customer Deposits
190	
200	Adjusted Net Operating Income
210	
220	Rate Base
230	
240	ROR Earned on Rate Base

COOPERATIVE NAME  
 JURISDICTIONAL CLASS COST OF SERVICE  
 (METHODOLOGY) COST ALLOCATION STUDY

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule ~~20B~~ 14B

CLASS SUMMARY  
 CASE NO. PUE-----

Line No.	Description	Virginia Juris	Retail Class 1	Retail Class 2	Retail Class 3	Retail Class 4	Retail Class 5	Allocation Basis
10	Operating Revenues							
20								
30	Operating Expenses							
40	Depreciation Expenses							
50	Amortization							
60	Income Taxes							
70	State Income Taxes							
80	Taxes Other than Income							

90  
 100 Total Operating Expenses  
 110  
 120 Net Operating Income  
 130  
 140 Adjustments to Operating  
 Income  
 150  
 160 Add: AFUDC  
 170 Less: Charitable Donations  
 180 Interest Expense-  
 Customer Deposits  
 190  
 200 Adjusted Net Operating Income  
 210  
 220 Rate Base  
 230  
 240 ROR Earned on Rate Base

COOPERATIVE NAME  
 JURISDICTIONAL CLASS COST OF SERVICE  
 (METHODOLOGY) COST ALLOCATION STUDY

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule ~~20C~~ 14C

CLASS FUNCTIONAL ANALYSIS  
 CASE NO. PUE-----

Line No.	Description	Retail Class 1	Production	Transmission	Distribution	Other	Allocation Basis
10	Operating Revenues						
20							
30	Operating Expenses						
40	Depreciation Expenses						
50	Amortization						
60	Income Taxes						
70	State Income Taxes						
80	Taxes Other than Income						
90							
100	Total Operating Expenses						
110							
120	Net Operating Income						
130							

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# Regulations

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140	Adjustments to Operating Income
150	
160	Add: AFUDC
170	Less: Charitable Donations
180	Interest Expense - Customer Deposits
190	
200	Adjusted Net Operating Income
210	
220	Rate Base
230	
240	ROR Earned on Rate Base

## **20VAC5-200-40. Rules implementing the The Small Water or Sewer Public Utility Act.**

~~The following rules apply~~ This section applies to public utilities holding a certificate of public convenience and necessity issued by the State Corporation Commission to provide either water or sewer service, or both, and having gross annual operating revenues of less than \$1 million. Such utilities are subject to the Small Water or Sewer Public Utility Act (§ 56-265.13:1 et seq. of the Code of Virginia) and shall be referred to herein as "company." Companies shall perform their own tariff justification analysis in-house prior to changing their rates, tolls, charges, fees, rates or regulations ("tariffs" or "rate changes"). Companies should endeavor to meet with any organized group of customers, e.g., civic associations or property owners' organizations, on a regular basis at least once a year to advise them of company problems, any impending tariff changes and why such changes are necessary. Companies are also encouraged to meet with the staff, following any company meeting with its customers to review and discuss proposed rate changes. However, each company remains responsible for bearing the burden of proof regarding any changes in its tariffs.

### Rules Requirements

1. Companies shall maintain their books and records in accordance with the Uniform System of Accounts for Class C companies on an accrual basis.
  2. A 3.0% composite rate of depreciation is usual and customary and presumed to be reasonable. Any company which desires to use a higher accrual rate shall notify the ~~Commission's~~ commission's Divisions of Energy Regulation and ~~Public Utility Accounting and Finance~~ Public Utility Accounting and Finance of its intent to change this rate in advance of booking same and shall provide to these ~~Divisions~~ divisions a copy of a study or other documents which the company believes supports its proposed change. The ~~Staff~~ staff shall review this change and advise the company of the results of its review. If the company wishes to contest the staff's conclusions regarding depreciation, it may, by motion, apply to the ~~Commission~~ commission for a hearing. If a company wishes to depreciate contributed property, it must advise the ~~Commission~~ commission, through its Divisions of Energy Regulation and ~~Public Utility Accounting and Finance~~ Public Utility Accounting and Finance, before booking depreciation on such property, and provide appropriate documentation to support the need for such depreciation under the requested accrual rate. The staff shall review this change and advise the company of the results of its review. If the company wishes to contest the staff's conclusions regarding depreciation of such property or the rate to be accrued thereon, the company, by motion, may apply to the ~~Commission~~ commission for a hearing.
- In the event that staff and company agree that depreciation of contributed property is proper and agree on the accrual rate for such depreciation, the amount so depreciated shall be placed in an escrow account and used only for capital improvements, until a ~~Commission~~ commission order is entered to the contrary.
3. Working capital may be accrued at the rate of 1/9th of the total operating and maintenance expenses for the test period.
  4. Each company shall file with the ~~Commission's~~ commission's Division of Energy Regulation three copies of the tariff changes, the notice required by subdivision 5 below, and the following information: A narrative statement that sets forth the name of the company, the name, address and telephone number of the person company wishes to have contacted about the tariff change and a brief explanation about why the change is being made. This narrative statement shall also describe whether the company's customers are served on a flat or metered basis; whether billed in advance or in arrears; and shall

separately identify the number of connected customers and the number of customers being assessed availability fees, if applicable.

5. Each company shall complete its written notification to all customers 45 days prior to the effective date of any change in tariffs. In cases of hearings resulting from customer requests, only a hearing request made by the individual in whose name the account is maintained shall be deemed a request by a customer. Customer petitions are acceptable.

If a company wishes to contest the number of customers requesting a hearing or whether one submitting a request is a customer, the company may request and those requesting a hearing shall provide to the company a copy of all requests for hearing or a copy of any customer petition filed with this ~~Commission~~ commission. If it is determined that requests for hearing have been received from persons other than customers and that the requisite number of customer requests have not been presented, the company may seek dismissal of the case.

The Company's notice to its customers shall follow the following format to the extent applicable:

NOTICE OF (INCREASES IN, CHANGES IN) RATES, CHARGES, RULES AND REGULATIONS OF SERVICE OF (INSERT NAME OF COMPANY)

(Insert name of Company) will change its (tariffs) on file with the State Corporation Commission, effective for service rendered on and after (effective date). (Summarize existing rates, fees, and charges and all new rates, fees, and charges).

[If applicable] (Insert name of Company) also will change the following portions of its rules and regulations of service, effective on the same date: (Summarize changes).

Any interested party may review (insert name of Company)'s proposed changes during regular business hours at the utility's office where customer bills may be paid.

Any interested person may file written comments in support of or objecting to the proposed changes with the Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218.

(NAME OF COMPANY)

6. The company is free to choose any test period it wishes to support its rate changes. However, a company having flat rate structures must annualize the level of revenues derived from their current rates based upon the number of customers served as of the end of its selected test period. A company with a metered rate structure must compute revenues in effect at the end of its selected test period based upon the number of customers and usage by customer block per billing period. In the event that a hearing is held, the company shall provide the foregoing information to the ~~Commission~~ commission on or before a date specified in the order scheduling hearing.

7. A hearing shall be held after at least 30 days notice to the company and its customers if a request or petition therefor is received by the ~~Commission~~ commission from at least 25 percent of all customers affected by any filed tariff change, or from 250 affected customers, whichever is the lesser, or from the company itself, or upon the ~~Commission's~~ commission's own motion. When a hearing is to be held, the ~~Commission~~ commission shall, by order, establish a hearing date and a date by which the company shall file financial data containing the information set forth in subdivision 8 below. A copy of the order shall be sent by first class mail to the company and any customer requesting a hearing from whom the ~~Commission~~ commission has a complete mailing address. This order shall also specify a filing schedule for the company, customers and staff.

8. Financial data regarding a rate increase filed pursuant to subdivision 7 hereof shall include:

Any company electing to use a calendar year as its test period may file a copy of its annual report and a statement prepared in the format of the form rate of return statement following this ~~rule~~ subdivision. The statement shall incorporate the per books data of revenues, expenses and plant stated in the annual report and appropriate adjustments. The ~~Commission~~ commission accepts adjustments which reflect (i) annualized changes occurring during the test year, (ii) known and certain wage agreements, (iii) elimination of test year expenses pertaining to a prior year or elimination or amortization of expenses of a nonrecurring nature, and (iv) known and certain changes occurring within 12 months after the test year. The utility is not, however, precluded from making other adjustments which it can support and justify. The utility shall also file an explanation of all of its adjustments appearing in the attached rate of return statement.

Any company electing to use a noncalendar test year may, in lieu of an annual report, file a current balance sheet, income statement and tax return statement prepared in the format of the form rate of return statement following this ~~rule~~ subdivision. The statement shall incorporate per books data of revenues, expenses and plant and appropriate adjustments. The ~~Commission~~ commission accepts adjustments which reflect (i) annualized changes occurring during the test year (ii) known and certain wage agreements, (iii) elimination of test year expenses pertaining to a prior year or elimination or amortization of expenses of nonrecurring nature, and (iv) known and certain changes occurring within 12 months after the test year. A utility is not, however, precluded from making other adjustments which it can support and justify. A utility

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using a noncalendar test shall also file an explanation of all adjustments and workpapers showing the calculation of the adjustments.

## Exhibit - RATE OF RETURN STATEMENT

	Per Books	Adjustments	After Adjustments	Proposed Increase	After Proposed Increase
Operating Revenues					
Water Service Fees					
Availability Fees					
Sewer Service Fees					
Miscellaneous Service Revenues					
Total Operating Revenues					
Operating Expenses					
Operation and Maintenance					
Depreciation and Amortization					
Taxes Other					
Federal Income Taxes					
Total Operating Expenses					
Net Operating Income					
Utility Plant					
Utility Plant in Service					
Less: Accumulated Depreciation and Amortization					
Less: Acquisition Adjustment - Net					
Less: Contributions in Aid of Construction					
Net Utility Plant					
Allowance for Working Capital					
Cash					
Materials and Supplies					
Total Allowance for Working Capital					

Net Utility Plant and Allowance

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### 20VAC5-201-10. General filing instructions.

A. An applicant shall provide a notice of intent to file an application pursuant to 20VAC5-201-20, 20VAC5-201-40, 20VAC5-201-60 and 20VAC5-201-85 to the commission 60 days prior to the application filing date.

B. Applications pursuant to 20VAC5-201-20 through 20VAC5-201-70 shall include:

1. The name and post office address of the applicant and the name and post office address of its counsel.

2. A full clear statement of the facts that the applicant is prepared to prove by competent evidence.
3. A statement of details of the objective or objectives sought and the legal basis therefore.
4. All direct testimony by which the applicant expects to support the objective or objectives sought.
5. Information or documentation conforming to the following general instructions:

- a. Attach a table of contents of the company's application, including exhibits.
- b. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. (Leave Blank)  
 Witness: (Initials)  
 Statement or  
 Schedule Number

- c. The first page of all exhibits shall contain a caption that describes the subject matter of the exhibit.
- d. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount that differs, together with an explanation describing the nature of the difference.
- e. The required accounting and statistical data shall include all work papers and other information necessary to ensure that the items, statements and schedules are not misleading.

C. ~~These rules do~~ This chapter does not limit the commission staff or parties from raising issues for commission consideration that have not been addressed in the applicant's filing before the commission. Except for good cause shown, issues specifically decided by commission order entered in the applicant's most recent rate case may not be raised by staff or interested parties in Earnings Test Filings made pursuant to 20VAC5-201-10, 20VAC5-201-30 or 20VAC5-201-50.

D. An application filed pursuant to 20VAC5-201-20, 20VAC5-201-30, 20VAC5-201-40, 20VAC5-201-60, 20VAC5-201-70, 20VAC5-201-80 or 20VAC5-201-85 shall not be deemed filed per Chapter 10 (§ 56-232 et seq.) or Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia unless it is in full compliance with ~~these rules~~ this chapter.

E. The commission may waive any or all parts of ~~these rate case rules~~ this chapter for good cause shown.

F. Where a filing contains information that the applicant claims to be confidential, the filing may be made under seal provided it is simultaneously accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing

the confidential information shall, however, be immediately available to the commission staff for internal use at the commission.

G. Filings containing confidential (or redacted) information shall so state on the cover of the filing, and the precise portions of the filing containing such confidential (or redacted) information, including supporting material, shall be clearly marked within the filing.

H. Applicants shall file electronic media containing an electronic spreadsheet version of Schedules 1 - 5, 8 - 28, 36, 40, and 50, as applicable, with the commission's Division of ~~Public Utility Accounting, the Division of Economics and Finance~~ and the Division of Energy Regulation or the Division of Communications, as appropriate. Such electronic media containing calculations derived from formulas shall be provided in an electronic spreadsheet including all underlying formulas and assumptions. Such electronic spreadsheet shall be commercially available and have common use in the utility industry. Additional versions of such schedules shall be made available to parties upon request.

I. All applications, including direct testimony and Schedules 1 - 28, 30 - 39, and 41 - 50, as applicable, shall be filed in an original and 12 copies with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. One copy of Schedules 29 and 40 shall be filed with the Clerk of the Commission. Applicants may omit filing Schedule 29 with the Clerk of the Commission in Annual Informational Filings. Additional copies of such schedules shall be made available to parties upon request.

Two copies of Schedules 29 and 40 shall be submitted to the Division of ~~Public Utility Accounting and Finance~~ or the Division of Communications, as appropriate. Two copies of Schedule 40 shall be submitted to the Division of Energy Regulation.

J. For any application made pursuant to 20VAC5-201-20 and 20VAC5-201-40 through 20VAC5-201-85, the applicant shall serve a copy of the information required in subsection A and subdivisions B 1 through B 3 of this section, upon the attorney and chairman of the board of supervisors of each county (or equivalent officials in the counties having alternate forms of government) in this Commonwealth affected by the proposed increase and upon the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia. All such service specified by ~~this rule~~ this section shall be made either by (i) personal delivery

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or (ii) first class mail, to the customary place of business or to the residence of the person served.

K. Nothing in these ~~rules~~ this chapter shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.

## **20VAC5-202-10. Applicability and scope.**

These regulations are promulgated pursuant to the provisions of the Virginia Electric Utility ~~Restructuring~~ Regulation Act (§ 56-576 et seq. of the Code of Virginia), and they apply only to incumbent electric utilities subject to the provisions thereof. Section 56-590 of the Act declares that all incumbent electric utilities shall functionally separate their generation, transmission and distribution services by January 1, 2002, and that such functional separation may be accomplished through the creation of affiliates or through such other means as may be acceptable to the commission. The utilities ~~are~~ were required to submit proposed functional separation plans to the Virginia State Corporation Commission by January 1, 2001.

Section 56-590 B 3 of the Act authorizes the commission to impose conditions, as the public interest requires, upon its approval of incumbent electric utilities' plan for functional separation, including requirements that (i) incumbent electric utilities' generation assets or their equivalent remain available for electric service during the capped rate period as provided in § 56-582 and, if applicable, during any period incumbent electric utilities serve as default providers pursuant to § 56-585, and (ii) incumbent electric utilities receive commission approval for the sale, transfer or other disposition of generation assets during the capped rate period and, if applicable, during any period incumbent electric utilities serve as default providers.

Pursuant to § 56-590 C, the commission is also directed, to the extent necessary to promote effective competition in the Commonwealth, to promulgate regulations:

1. Prohibiting cost-shifting or cross-subsidies between functionally separate units;
2. Prohibiting functionally separate units from engaging in anticompetitive behavior or self-dealing;
3. Prohibiting affiliated entities from engaging in discriminatory behavior toward nonaffiliated units; and
4. Establishing codes of conduct detailing permissible relations between functionally separate units.

Additionally, § 56-590 F provides, in pertinent part, that nothing in the Virginia Electric Utility ~~Restructuring~~ Regulation Act shall be deemed to abrogate or modify the commission's authority under Chapters 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.) or 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia.

~~These regulations~~ This chapter, therefore, [ ~~implement~~ implements ] the statutory provisions of the Virginia Electric Utility ~~Restructuring~~ Regulation Act described above, ~~and are intended to aid incumbent electric utilities required to (i)~~

~~functionally separate their generation, transmission and distribution services by January 1, 2002, and (ii) submit applications for such purpose to the commission by January 1, 2001.~~ Such regulations shall not, however, be deemed to modify or supercede any regulations adopted by the commission concerning the relationships between local distribution companies and any company licensed by the commission to provide competitive energy services, which regulations shall include the commission's Interim Rules Governing Electric and Natural Gas Retail Access Pilot Programs, 20VAC5-311-10 et seq., and any successor regulations thereto.

## **20VAC5-202-20. Definitions.**

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

"Act" means the Virginia Electric Utility ~~Restructuring~~ Regulation Act.

"Affiliated generation company" means a generation company that controls, is controlled by, or is under common control with a local distribution company. For purposes of this chapter, any unit or division created by a local distribution company for the purpose of acting as a generation company shall be treated as an affiliated generation company and shall be subject to the same provisions and regulations.

"Commission" or "SCC" means the Virginia State Corporation Commission.

"FERC" means the Federal Energy Regulatory Commission.

"Generation company" means a person owning, controlling, or operating a facility that produces electric energy for sale to wholesale customers.

"Incumbent electric utility" shall have the same meaning as set forth in § 56-576 of the Code of Virginia.

"Local distribution company" means an entity regulated by the Virginia State Corporation Commission that owns or controls the distribution facilities required for delivery of electricity to the end user.

"Market price" or "market value" means the value of comparable goods or services determined through such methods as competitive bidding, appraisals, catalog listings, sales to third parties and asset replacement cost determinations.

"Person" shall have the same meaning as set forth in § 56-576 of the Code of Virginia.

"Transmission provider" means an entity regulated by the Federal Energy Regulatory Commission (FERC) that owns or operates, or both, transmission facilities.

## **20VAC5-202-30. Relations between affiliated functionally separated entities; SCC oversight.**

A. The following practices are prohibited:

1. Cost shifting or cross subsidies between functionally separate units;

2. Anticompetitive behavior or self-dealing between functionally separate units; and
3. Discriminatory behavior by affiliated entities toward nonaffiliated units.

B. The following provisions apply to (i) the relationships between a local distribution company and any affiliated generation company following the commission's approval of their functional separation and (ii) the commission's oversight of such affiliated companies:

1. The local distribution company shall not give undue preference to an affiliated generation company over the interests of any other generation company. For purposes of this subdivision, "undue preference" means a preference that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

2. To the extent local distribution companies administer or otherwise furnish fuel supply services, such companies shall provide information related to fuel or fuel supply resources to an affiliated generation company only if it makes such information simultaneously available, through an electronic bulletin board or similar means of public dissemination, to all other generation companies conducting business in Virginia. Nothing in this subdivision shall require any local distribution company to disseminate to all generation companies information requested and deemed competitively sensitive by a generation company and supplied by the local distribution company. This subdivision is not applicable to daily operational data provided by the local distribution company to any generation company in the ordinary course of conducting business.

3. Affiliated local distribution and generation companies shall maintain separate records and accounts for functionally separate units and separate books of account for separate legal entities.

4. Each local distribution company shall operate independently of any affiliated generation company and shall observe the following requirements:

- a. Each local distribution company shall establish and implement internal controls to ensure that such company and its employees who are engaged in (i) merchant operations, transmission, or reliability functions of electric generation or natural gas supply systems, or (ii) customer service, sales, marketing, accounting or billing functions do not provide information to an affiliated generation company or to entities that provide similar functions for or on behalf of such an affiliated general company that would give any such affiliated generation company an undue advantage over nonaffiliated generation companies. For purposes of this subdivision, "undue advantage" means an advantage that is reasonably likely to affect adversely the development of effective competition within the Commonwealth.

- b. Each local distribution company shall file with the commission, a listing and description of all internal controls implemented pursuant to this section ~~as provided for in 20VAC5-202-40~~ or within 10 days subsequent to any modification of such controls.

5. Local distribution companies shall be subject to the following requirements concerning affiliate transactions:

- a. Local distribution companies shall be compensated at the greater of fully distributed cost or market price for all nontariffed services, facilities, and products provided to an affiliated generation company. An affiliated generation company shall be compensated at the lower of fully distributed cost or market price for all nontariffed services, facilities, and products provided to the local distribution company. If market price data are unavailable for purposes of such calculations, nontariffed services, facilities and products shall be compensated at fully distributed costs. In such event, the local distribution company shall document its efforts to determine market price data and its basis for concluding that such price data are unavailable. Notification of a determination of the unavailability of market price data shall be included with the report required in subdivision 5 b of this subsection.

- b. Local distribution companies shall file annually with the commission, a report that shall, at a minimum, include: (i) the amount and description of each type of nontariffed service provided to or by an affiliated generation company; (ii) accounts debited or credited; and (iii) the compensation basis used (i.e., market price or fully distributed cost). The local distribution company shall make available to the commission's staff, upon request, the following documentation for each agreement and arrangement where services are provided to or by an affiliated generation company: (i) component costs (i.e., direct or indirect labor, fringe benefits, travel or housing, materials, supplies, indirect miscellaneous expenses, equipment or facilities charges, and overhead); (ii) profit component; and (iii) comparable market values and documentation.

6. Affiliated generation and local distribution companies shall document each occasion that (i) an employee of one becomes an employee of the other or of any transmission provider that services either, or (ii) an employee of any transmission provider that services any such affiliated distribution company or generation company becomes any employee of either. Upon request of the commission's staff, such information shall be filed with the commission identifying each such employment described in this subdivision. This information shall include a listing of each employee transferred and a brief description of each associated position and responsibility.

7. The commission may inspect the books, papers, records and documents of, and require special reports and

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statements from, every generation company affiliated with a local distribution company regarding) transactions with its local distribution company affiliate. Upon complaint or on its own initiative, the commission may also (i) investigate alleged violations of this chapter, and (ii) seek to resolve any complaints filed with the commission against any such affiliated generation company.

## **20VAC5-202-40. Application for functional separation. (Repealed.)**

~~A. Each incumbent electric utility required by the Act to functionally separate its generation, transmission and distribution services shall submit a plan to the commission thereof by January 1, 2001, conforming to the requirements set forth below. In addition to information specifically required under this chapter, the incumbent electric utility shall provide any information or documentation it believes will assist the commission in evaluating such utility's functional separation plan.~~

~~B. Each plan submitted by an incumbent electric utility shall, at a minimum, contain the following provisions or information. If such information is not available as of the date of the filing, the application shall contain a detailed explanation as to why such information is not available, the efforts under way to develop such information, and an estimate of the time within which it will be available.~~

~~1. A table of contents detailing the plan's components that shall include, at a minimum, a list of testimonies, schedules, supporting witnesses and issues addressed.~~

~~2. An executive summary of the functional separation plan that shall include the following:~~

~~a. An overview of the present structure of the integrated utility.~~

~~b. An overview of the proposed functional separation plan, including but not limited to, the following issues or matters:~~

~~(1) The specific type of functional separation proposed (e.g., transfer to an affiliate or division, divestiture, etc.) with an assessment of how such method will comply with § 56-590 of the Code of Virginia.~~

~~(2) A timeline for implementing the functional separation plan's major components.~~

~~(3) A description of measures proposed to ensure that the proposed plan of functional separation will not jeopardize or impair the safety or reliability of the incumbent electric utility's generation, transmission, and distribution systems.~~

~~(4) The estimated amount of assets and liabilities (including deferred taxes) proposed to be transferred to each functionally separate entity or third party.~~

~~(5) The estimated cost of the proposed plan of functional separation.~~

~~(6) Measures proposed in the plan to enable the incumbent electric utility to (i) meet potential obligations to provide capped rate service and default service, and (ii) assure that generation assets or their equivalent remain available during the capped rate and default service periods established under the Act.~~

~~e. A list of specific approvals sought by the incumbent electric utility in conjunction with its functional separation plan, identifying the sections of the Code of Virginia under which each such approval is sought, and describing the proposed timeframe for each such approval.~~

~~d. A summary of any other information the incumbent electric utility believes will be helpful to the commission in assessing the proposed functional separation plan.~~

~~e. Waivers that the incumbent electric utility is requesting from the requirements of this chapter, and the reasons therefor.~~

~~f. Exemptions that the incumbent electric utility is requesting pursuant to § 56-590 F from the provisions of Chapter 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia.~~

~~3. An assessment of the financial impact of the proposed functional separation plan, including information concerning the following:~~

~~a. The capital structure and cost of capital, including any transaction or refinancing costs, of the functionally separate entities resulting from the proposed plan used to calculate the unbundled cost of capital supporting the cost of service study required by subdivision 7 of this subsection.~~

~~b. The manner in which any assets are proposed to be transferred in the form of a dividend from any proposed functionally separate entity to any parent entity thereof incident to functional separation.~~

~~e. A description of (i) how the local distribution company will account for a wires charge and (ii) how a wires charge will impact the financial statements of the local distribution company.~~

~~d. Any other financial information relevant to the incumbent electric utility's proposed functional separation plan.~~

~~4. Information concerning the proposed structure of each functionally separate entity, as follows:~~

~~a. The legal structure of each functionally separate entity proposed in the functional separation plan (e.g., corporation, limited liability company, limited liability partnership, etc.).~~

~~b. The names and addresses of each proposed functionally separate entity's officers and directors, or their equivalents.~~

e. The location and mailing address of each proposed functionally separate entity's headquarters.

d. A description of how functional separation requirements in any other states have affected, or may affect, the incumbent electric utility, its structure and operations.

e. A description of all federal agency approvals required in connection with the execution and implementation of the incumbent electric utility's proposed functional separation plan, identifying any state commission findings (i) required in conjunction with such federal agency approvals, or (ii) otherwise required pursuant to federal law.

f. A timeline for implementing major elements of the functional separation plan.

5. Information concerning separation of functions and operations, as follows:

a. A description of the products and services to be offered by any proposed functionally separate entity.

b. A description of functions and services to be transferred from the incumbent electric utility to any proposed functionally separate entity.

c. A description of competitive services to be offered by each functionally separate entity of the incumbent electric utility.

d. Information concerning the total number of incumbent electric utility employees proposed to be (i) transferred to any proposed functionally separate entity, or (ii) jointly employed by any proposed functionally separate entities, following functional separation.

e. A detailed description of measures proposed to ensure the safety and reliability of the incumbent electric utility's generation, transmission and distribution system in conjunction with functional separation.

f. An estimate of the cost of functional separation, and an explanation of how the costs thereof will be shared among the proposed functionally separate entities.

g. A list and description of the internal controls established to ensure that the local distribution company and its affiliated generation company operate independently as required by 20VAC5-202-30 B 4.

6. Information concerning asset and liability transfers or sales, as follows:

a. A list of assets or liabilities that the incumbent electric utility proposes to transfer to a functionally separate entity or proposes to sell to a third party. The list shall include the FERC account number, book value, proposed transfer date and the recipient of the assets or liabilities.

b. The method used to value the transfer of assets to a functionally separate entity or to a third party, and justification for the chosen methodology. Information

furnished shall include documentation supporting the valuation and transfer thereof.

e. If the Legislative Transition Task Force adopts a resolution requesting the commission's assistance with monitoring the recovery of net stranded costs pursuant to § 56-595 C of the Act, then the following information shall be provided to the commission: (i) fair market value of each generation and transmission asset functionally unbundled, transferred or sold to a third party or affiliate and (ii) a list of all long term power contracts functionally unbundled, transferred or sold to a third party or affiliate. Information furnished shall include the length and anticipated expiration date of each contract, annual cash payments for power, and the market value of each power contract for each year of its remaining life.

d. Detailed documentation supporting (i) the accounting for the proposed transfer or divestiture of generation assets, and (ii) projected impacts of such transfers or divestiture on current and deferred income taxes. The information furnished shall include the income statement and balance sheet effects of income taxes, both before and after the proposed transfer or divestiture.

e. A copy of the proposed system of accounts, if other than the FERC uniform system of accounts, that any affected affiliated generation company will use for booking purposes.

f. A list of new investments (including amounts and time period) necessitated by the incumbent electric utility's proposed functional separation plan.

g. In furtherance of the commission's responsibility under § 56-590 B 3 of the Code of Virginia, each incumbent utility shall provide an assessment of how its proposed functional separation plan advances or satisfies such utility's obligation to make electric service available at the capped rates established under § 56-582 D.

h. In furtherance of the commission's responsibility under § 56-590 B 3 of the Code of Virginia, each incumbent utility shall provide an assessment of how its proposed functional separation plan advances or satisfies such utility's potential obligation to provide electric service as a default supplier pursuant to § 56-585. Such assessment shall include a detailed description of pricing and capacity if the incumbent electric utility proposes to utilize equivalent generation in satisfaction of such obligation.

i. An analysis comparing the cost of obtaining equivalent generation to the cost of retaining generation assets if the incumbent electric utility proposes to divest all or part of its generation assets supporting its Virginia load. The information furnished shall explain how such equivalent generation will produce rates, reliability and capacity that are at least comparable to that provided by the generation assets currently held by the incumbent electric utility. Additionally, the information shall include the incumbent

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electric utility's assessment of how obtaining equivalent generation is in the public interest.

~~7. Information concerning a cost of service study as follows:~~

~~a. A cost of service study, based on a test year beginning no earlier than January 1, 1999, reflecting total company and total Virginia operations.~~

~~b. A cost of service study that separates total Virginia operations identified in a of this subdivision into Virginia jurisdictional and Virginia nonjurisdictional operations.~~

~~c. A cost of service study that separates Virginia jurisdictional operations established under subdivision 7 b of this subsection, by class and function utilizing the rate of return approved by the commission in the incumbent electric utility's most recent rate case or alternative regulatory plan. Class costs shall be subdivided by generation, transmission, distribution, metering, billing, and other customer services as may be warranted or required by the commission. Such divisions shall be further subdivided as demand, energy and customer. The class study shall include computations of the average price per unit for these various subdivisions.~~

~~8. The incumbent electric utility's proposed unbundled tariffs, rates, terms and conditions.~~

~~9. A description of how the incumbent electric utility's proposed functional separation will comply with 20VAC5-202-30.~~

## **20VAC5-202-50. Waiver or exemption requests; confidential information; other filings.**

A. Any request for a waiver of any provision in this chapter shall be considered by the commission on a case-by-case basis and may be granted upon such terms and conditions as the commission may impose.

B. Where a filing made pursuant to this chapter contains information that the applicant claims to be confidential, the filing may be made under seal provided it is accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall be maintained under seal unless and until the commission rules otherwise, except that such filings shall be immediately available to the commission staff for internal use at the commission.

Filings containing confidential (or redacted) information shall be so stated on the cover of the filing, and the precise portions of the filing containing such confidential (or redacted) information, including supporting material, shall be clearly marked within the filing.

~~C. Each incumbent electric utility shall file simultaneously with its functional separation plan its application for transfer of assets pursuant to the Utility Transfers Act, Chapter 5~~

~~(§ 56-88 et seq.) of Title 56 of the Code of Virginia, if any, except for good cause shown.~~

~~D. Any incumbent electric utility requesting an exemption pursuant to § 56-590 G from the provisions of Chapter 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia, to the extent that any such incumbent electric utility's proposed functional separation plan includes a covered transaction otherwise subject to the provisions of § 56-590, shall clearly identify such request in its functional separation plan filed with the commission.~~

## **20VAC5-304-40. Pilot or experimental programs.**

Utilities must seek ~~Commission~~ commission approval of pilot or experimental programs that involve rates or promotional allowances, but other limited pilot or experimental programs may be conducted without prior ~~Commission~~ commission approval. Utilities shall file reports with the ~~Commission's~~ commission's Division of ~~Economics and Finance~~ Energy Regulation that identify any pilot or experimental program at least 30 days prior to its implementation. Periodic reports shall also be filed at least semi-annually with the ~~Commission's~~ commission's Division of ~~Economics and Finance~~ Energy Regulation identifying all DSM pilot or experimental programs and the status of such programs.

## **20VAC5-312-20. General provisions.**

A. A request for a waiver of any of the provisions in this chapter shall be considered by the State Corporation Commission on a case-by-case basis, and may be granted upon such terms and conditions as the State Corporation Commission may impose.

B. The provisions of this chapter may be enforced by the State Corporation Commission by any means authorized under applicable law or regulation. Enforcement actions may include, without limitation, the refusal to issue any license for which application has been made, and the revocation or suspension of any license previously granted. The provisions of this chapter shall not be deemed to preclude a person aggrieved by a violation of these regulations from pursuing any civil relief that may be available under state or federal law, including, without limitation, private actions for damages or other equitable relief.

C. The provisions of this chapter shall not be deemed to prohibit the local distribution company, in emergency situations, from taking actions it is otherwise authorized to take that are necessary to ensure public safety and reliability of the distribution system. The State Corporation Commission, upon a claim of inappropriate action or its own motion, may investigate and take such corrective actions as may be appropriate.

D. The State Corporation Commission maintains the right to inspect the books, papers, records and documents, and to require reports and statements, of a competitive service provider as required to verify qualifications to conduct

business within the Commonwealth, to support affiliate transactions, to investigate allegations of violations of this chapter, or to resolve a complaint filed against a competitive service provider. Every competitive service provider licensed pursuant to this chapter shall establish and maintain records identifying persons or entities performing promotional or marketing activities on behalf of or in conjunction with such competitive service provider.

E. The local distribution company shall provide, pursuant to the prices, terms, and conditions of its tariffs approved by the State Corporation Commission, service to all customers that do not select a competitive service provider and to customers that chose a competitive service provider but whose service is terminated for any reason.

F. A competitive service provider selling electricity supply service or natural gas supply service, or both, at retail shall:

1. Procure sufficient electric generation and transmission service or sufficient natural gas supply and delivery capability, or both, to serve the requirements of its firm customers.
2. Abide by any applicable regulation or procedure of any institution charged with ensuring the reliability of the electric or natural gas systems, including the State Corporation Commission, the North American Electric Reliability Corporation, and the Federal Energy Regulatory Commission, or any successor agencies thereto.
3. Comply with any obligations that the State Corporation Commission may impose to ensure access to sufficient availability of capacity.

G. The local distribution company and a competitive service provider shall not:

1. Suggest that the services provided by the local distribution company are of any different quality when competitive energy services are purchased from a particular competitive service provider; or
2. Suggest that the competitive energy services provided by a competitive service provider are being provided by the local distribution company rather than the competitive service provider.

H. The local distribution company shall conduct its forecasting, scheduling, balancing, and settlement activities in a nondiscriminatory and reasonably transparent manner.

I. The local distribution company shall bear the responsibility for metering as provided by legislation and implemented by the State Corporation Commission.

J. The local distribution company and a competitive service provider shall adhere to standard practices for exchanging data and information in an electronic medium as specified by the VAEDT and filed with the State Corporation Commission or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission. In the event the parties agree to initially use a means other than those specified by VAEDT or the local distribution

company's tariff, then the competitive service provider shall file a plan with the State Corporation Commission's Division of ~~Economics and Finance~~ Energy Regulation to implement VAEDT or tariff approved standards within 180 days of the initial retail offering.

K. The local distribution company and a competitive service provider that is responsible for exchanging customer information electronically with such local distribution company shall, except as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission, successfully complete EDI testing and receive certification for all EDI transactions, as outlined in the VAEDT EDI Test Plan, prior to actively enrolling customers, except as permitted by subsection [ ~~K~~ J ] of this section.

L. A competitive service provider offering billing service that requires the direct delivery of a bill to a customer and that requires the electronic exchange of data with the local distribution company shall furnish, prior to enrolling the customer, a sample bill produced from the data exchanged in the EDI certification process, or comparable electronic data exchange process, as described in subsection L of this section, or a sample bill produced similarly elsewhere, to the State Corporation Commission's Division of Energy Regulation ~~and Division of Economics and Finance~~.

M. Upon enrollment of a customer to receive competitive supply service, the local distribution company shall file with the State Corporation Commission's Division of Energy Regulation ~~and Division of Economics and Finance~~ a monthly report which shall, at a minimum, include all cancellation requests alleging a customer was enrolled without authorization. Such reports shall include: (i) the approximate date of the enrollment; (ii) the identity of the competitive service provider involved; (iii) the name and address of the customer that cancelled such enrollment; and (iv) if readily available, a brief statement regarding the customer's explanation for the cancellation. Such reports shall be reviewed by commission staff and regarded as confidential unless and until the State Corporation Commission orders otherwise.

N. Upon enrollment of a customer to receive competitive supply service, the local distribution company shall file with the State Corporation Commission's Division of ~~Economics and Finance~~ Energy Regulation a quarterly report providing a detailed breakdown of residential and nonresidential customer switching activity. Such reports shall include, for the local distribution company, the total number of customers and corresponding amount of load eligible to switch; and, for each competitive service provider, the total number of customers and corresponding amount of load served. The amount of load shall be measured in MW, Mcf, or dekatherm capacity of peak load contribution and in kWh, Mcf, or therms of associated energy. Such reports shall be reviewed by commission staff and information specific to individual

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competitive service providers shall be regarded as confidential unless and until the State Corporation Commission orders otherwise.

O. By March 31 of each year, the provider of electricity supply service shall report to its customers and file a report with the State Corporation Commission stating to the extent feasible, fuel mix and emissions data for the prior calendar year. If such data is unavailable, the provider of electricity supply service shall file a report with the State Corporation Commission stating why it is not feasible to submit any portion of such data.

P. A competitive service provider shall file a report with the State Corporation Commission by March 31 of each year to update all information required in the original application for licensure. A \$100 administrative fee payable to the State Corporation Commission shall accompany this report.

Q. A competitive service provider shall inform the State Corporation Commission within 30 days of the following: (i) any change in its name, address and telephone numbers; (ii) any change in information regarding its affiliate status with the local distribution company; (iii) any changes to information provided pursuant to 20VAC5-312-40 A 13; and (iv) any changes to information provided pursuant to 20VAC5-312-40 A 15.

R. If a filing with the State Corporation Commission, made pursuant to this chapter, contains information that the local distribution company or a competitive service provider claims to be confidential, the filing may be made under seal provided it is accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall be maintained under seal unless the State Corporation Commission orders otherwise, except that such filings shall be immediately available to the commission staff for internal use at the commission. Filings containing confidential or redacted information shall be so stated on the cover of the filing, and the precise portions of the filing containing such confidential or redacted information, including supporting material, shall be clearly marked within the filing.

## **20VAC5-312-50. Competitive service provider registration with the local distribution company.**

A. A competitive service provider shall submit to the local distribution company the full name of the competitive service provider, the type of entity (e.g., partnership, corporation, etc.), physical street and mailing addresses.

B. A competitive service provider shall furnish the local distribution company and the transmission provider proof of licensure from the State Corporation Commission to provide competitive energy services in the Commonwealth. A competitive service provider shall provide notice of any suspension or revocation of its license to the local distribution company and the transmission provider upon issuance of the

suspension or revocation by the State Corporation Commission.

C. A competitive service provider and the local distribution company shall exchange the names, telephone numbers, and e-mail addresses of appropriate internal points of contact to address operational, business coordination and customer account issues, and the names and addresses of their registered agents in Virginia.

D. The local distribution company may require reasonable financial security from the competitive service provider to safeguard the local distribution company and its customers from the reasonably expected net financial impact due to the nonperformance of the competitive service provider. The amount of such financial security shall be commensurate with the level of risk assumed by the local distribution company, as determined by the local distribution company's applicable tariff approved by the State Corporation Commission. Such financial security may include a letter of credit, a deposit in an escrow account, a prepayment arrangement, a surety bond, or other arrangements that may be mutually agreed upon by the local distribution company and the competitive service provider. Disagreements with respect to financial security shall be subject to the dispute resolution procedures established pursuant to 20VAC5-312-110 G.

E. Prior to imposing a non-emergency related restriction or disqualification on a competitive service provider, as provided by its tariff approved by the State Corporation Commission, the local distribution company shall notify the competitive service provider of the impending restriction or disqualification and its effective date, the alleged action or inaction that merits such restriction or disqualification, and the actions, if any, that the competitive service provider may take to avoid the restriction or disqualification. Such notice shall be in writing and sent to the competitive service provider via fax or overnight delivery. A copy of the notice shall be forwarded contemporaneously to the State Corporation Commission's Division of Energy Regulation and Division of Economics and Finance via fax or overnight delivery.

## **20VAC5-312-90. Billing and payment.**

A. A competitive service provider may offer separate billing service or consolidated billing service, where either the local distribution company or the competitive service provider would be the billing party, to prospective customers pursuant to the local distribution company's tariff approved by the State Corporation Commission. Where a competitive service provider would be the billing party, prior to an initial offering of consolidated billing service to customers within the service territory of each local distribution company, and after certification as required by 20VAC5-312-20 K, the competitive service provider shall abide by the following requirements:

1. The competitive service provider shall provide written notice, at least 30 days in advance, to the local distribution

company and to the State Corporation Commission's Division of Energy Regulation and ~~Division of Economics and Finance~~. The written notification to the Division of Energy Regulation and ~~the Division of Economics and Finance~~ shall include:

- a. The anticipated date of the initial consolidated billing service offering in each local distribution company service territory in which the service will be offered.
- b. Any changes in information provided by the competitive service provider in its original license application pursuant to 20VAC5-312-40 A that have not been reported to the State Corporation Commission pursuant to 20VAC5-312-20 P and 20VAC5-312-20 Q.
- c. The expected maximum market penetration for the provision of consolidated billing service to electricity customers during the following 12 months, including the estimated number of customers and associated annual consumption by customer type or load profile classification.
- d. A representation that the electric competitive service provider has undertaken the necessary preliminary coordination efforts with tax officials of each potentially affected locality regarding the competitive service provider's obligation to collect and remit local consumption taxes and local utility consumer taxes.

2. The competitive service provider shall establish such financial security as the State Corporation Commission may require for such competitive service provider's estimated liability associated with the collection and remittance of state, local, and special regulatory consumption taxes and local utility consumer taxes.

B. Subject to the exemptions applicable to municipal electric utilities and ~~utility consumer service cooperatives~~ set forth in § ~~56-581.1~~ 56-581 C of the Code of Virginia, a competitive service provider shall coordinate the provision of the customer-selected billing service with the local distribution company by any means specified by VAEDT or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission.

C. Consolidated billing, except as otherwise arranged through contractual agreement between the local distribution company and a competitive service provider or as otherwise provided by the local distribution company's tariff approved by the State Corporation Commission, shall:

- 1. Be performed under a "bill-ready" protocol.
- 2. Not require the billing party to purchase the accounts receivable of the nonbilling party.
- 3. Not require the electric local distribution company to include natural gas competitive energy service charges on a consolidated bill or the natural gas local distribution company to include electric competitive energy service charges on a consolidated bill.

4. Not require the local distribution company to exchange billing information for any customer account with more than one competitive service provider for the same billing period.

5. Comply with the local distribution company's normal billing and credit cycle requirements for distribution service.

D. In the event a competitive service provider collects security deposits or prepayments, such funds shall be held in escrow by a third party in Virginia, and the competitive service provider shall provide to the State Corporation Commission the name and address of the entity holding such deposits or prepayments.

E. A competitive service provider requiring a deposit or prepayment from a customer shall limit the amount of the deposit or prepayment to the equivalent of a customer's estimated liability for no more than three months' usage of services from the competitive service provider by that customer.

F. Customer deposits held or collected by a local distribution company shall be for only those services provided by the local distribution company. Any deposit held in excess of this amount shall be promptly credited or refunded to the customer. The local distribution company may, upon a customer's return to regulated electricity supply service or natural gas supply service, collect that portion of a customer deposit as permitted by the local distribution company's tariffs and 20VAC5-10-20.

G. Terms and conditions concerning customer disconnection for nonpayment of regulated service charges shall be set forth in each local distribution company's tariff approved by the State Corporation Commission. A customer may not be disconnected for nonpayment of unregulated service charges. If a customer receives consolidated billing service and a competitive service provider is the billing party, the local distribution company shall advise the customer directly of any pending disconnection action for nonpayment through 10 days' notice by mail, separate from the consolidated bill. Such notice shall clearly identify the amount that must be paid and the date by which such amount must be received by, and also provide instructions for direct payment to, the local distribution company to avoid disconnection.

H. The provision of consolidated billing service shall conform to the following requirements:

- 1. The billing party shall apply a customer's partial payment of a consolidated bill as designated by the customer, or, in the absence of a customer's designation, to charges in the following order: (i) to regulated service arrearages owed the local distribution company; (ii) to competitive energy service arrearages owed the competitive service provider; (iii) to regulated service current charges of the local distribution company; (iv) to competitive energy service current charges of the competitive service provider; and (v) to other charges.

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2. Collections of state and local consumption taxes and local utility consumer taxes shall be remitted as required by law. The person responsible for collecting and remitting such taxes shall:

a. Submit simultaneously, on or before the last day of the succeeding month of collection to the State Corporation Commission's Division of Public Service Taxation, the payment of the preceding month's state and special regulatory consumption taxes and associated Electric Utility or Natural Gas Consumption Tax Monthly Report.

b. Submit simultaneously, in accordance with the Code of Virginia and local ordinance, to each local government in whose jurisdiction the taxes have been collected, the payment of local consumption taxes and local utility consumer taxes and associated tax remittance reports.

I. The local distribution company and a competitive service provider shall comply with the following minimum billing information standards applicable to all customer bills:

1. Sufficient information shall be provided or referenced on the bill so that a customer can understand and calculate the billing charges.

2. Charges for regulated services and unregulated services shall be clearly distinguished.

3. Standard terminology shall be employed and charges shall be categorized for the following key bill components, as applicable: (i) distribution service; (ii) electricity supply service or natural gas supply service; (iii) state and local consumption tax; and (iv) local (or locality name) utility tax. The bill may provide further detail of each of these key components as appropriate.

4. Nonroutine charges and fees shall be itemized including late payment charges and deposit collections.

5. The total bill amount due and date by which payment must be received to avoid late payment charges shall be clearly identified.

6. The 24-hour toll-free telephone number of the local distribution company for service emergencies shall be clearly identified.

7. In the event a disconnection notice for nonpayment is included on a customer bill issued by the local distribution company, the notice shall appear on the first page of the bill and be emphasized in a manner that draws immediate attention to such notice. The notice shall clearly identify the amount that must be paid and the date by which such amount must be paid to avoid disconnection.

8. The following additional information shall be provided on customer bills to the extent applicable:

a. Customer name, service address, billing address, account number, rate schedule identifier, and meter identification number.

b. Billing party name, payment address, and toll-free telephone number for customer inquiries and complaints.

c. For consolidated bills, nonbilling party name and toll-free telephone number for customer inquiries and complaints and the customer's local distribution company account number.

d. Bill issue date and notice of change in rates.

e. Previous and current meter readings and dates of such meter readings or metering period days, current period energy consumption, meter reading unit conversion factor, billing-demand information, and "estimated" indicator for non-actual meter reads.

f. Previous bill amount or account balance, payments received since previous billing, balance forward, current charges, total amount due or current account balance, and payment plan information.

g. For consolidated bills, billing party and nonbilling party elements as specified in subdivision 8 f of this subsection.

J. The local distribution company shall comply with the following additional billing information standards applicable to the bills of customers that are not subject to demand-based billing charges and that purchase regulated electricity supply service or regulated natural gas supply service from the local distribution company:

1. The local distribution company shall employ standard terminology and categorize charges for the following key billing components: (i) distribution service; (ii) electricity supply service or natural gas supply service; (iii) state and local consumption tax; and (iv) local (or locality name) utility tax. Brief explanations of distribution service and electricity supply service or natural gas supply service shall be presented on the bill. Such explanations shall convey that distribution service is a regulated service that must be purchased from the local distribution company and that electricity supply service or natural gas supply service may be purchased from the competitive market;

2. The local distribution company shall provide on customer bills a customer's monthly energy consumption, numerically or graphically, for the previous 12 months; and

3. The investor-owned electric local distribution company shall provide on each bill a "price-to-compare" value, stated in cents per kilowatt-hour, representing the cost of regulated electricity supply service that would be applicable if such service were purchased from a competitive service provider. The appropriate use and limitations of such "price-to-compare" value shall be stated on the bill.

K. The local distribution company shall develop and implement a program to provide "price-to-compare" information and assistance to customers. Such a program shall ensure that customers will be provided meaningful information for evaluating competitive offers of electricity supply service or natural gas supply service. At a minimum,

the program shall include a mechanism for providing, or making readily accessible, customer-specific "price-to-compare" information, including explanations of its appropriate use and limitations.

L. The billing party shall, except as otherwise arranged through contractual agreement with the nonbilling party, provide sufficient space on a consolidated bill to accommodate the local distribution company's customer account number and the nonbilling party's name and toll-free telephone number, previous bill amount or account balance, payments applied since the previous billing, balance forward, total current charges, total amount due or current account balance, six additional numeric fields to detail current charges, and 240 additional text characters.

M. If the local distribution company, as the billing party, provides consolidated billing service to a customer and continues to be the customer's billing party after the customer's service with a competitive service provider terminates, the local distribution company shall, except as otherwise arranged through contractual agreement with such competitive service provider, continue to track and bill customer account arrearages owed to such competitive service provider for two billing cycles after service has terminated. The bill shall list, at a minimum, the name, toll-free telephone number, and balance due for each former competitive service provider.

N. If the current charges of the nonbilling party are not included on the consolidated bill issued by the billing party, the bill shall note that such charges are not included.

O. If the current charges of the nonbilling party are not included on the consolidated bill issued by the billing party due to causes attributable to the nonbilling party, the charges shall be billed in the following month unless the two parties mutually agree to other arrangements.

P. If the current charges of the nonbilling party are not included on the consolidated bill issued by the billing party due to causes attributable to the billing party, the bill shall be cancelled and reissued to include such charges unless the two parties mutually agree to other arrangements.

Q. The local distribution company or a competitive service provider shall report any significant deficiency regarding the timely issuance, accuracy, or completeness of customer bills to the State Corporation Commission's Division of Energy Regulation as soon as practicable. Such reports shall detail the circumstances surrounding the deficiency and the planned corrective actions.

R. If the local distribution company has an approved tariff for electric energy provided 100% from renewable energy pursuant to § 56-577 A 5 of the Code of Virginia, the provisions of subsections A through Q of this section shall not be applicable. Instead, an electric distribution company and an electric competitive service provider shall only offer separate billing service where both would be the billing party for the respective services to prospective customers pursuant

to the local distribution company's tariff approved by the State Corporation Commission.

## **20VAC5-314-10. Applicability and scope; waiver.**

A. These regulations are promulgated pursuant to § 56-578 of the Virginia Electric Utility ~~Restructuring~~ Regulation Act (§ 56-576 et seq. of the Code of Virginia). They establish standardized interconnection and operating requirements for the safe operation of electric generating facilities with a rated capacity of 20 megawatts (MW) or less connected to electric utility distribution (and in certain cases transmission) systems in Virginia. These regulations apply to utilities providing interconnections to retail electric customers, independently owned generators and any other parties operating, or intending to operate, a distributed generation facility in parallel with utility systems. These regulations do not apply to customer generators operating pursuant to the Virginia State Corporation Commission's Regulations Governing Net Energy Metering (20VAC5-315) or those that fall under the jurisdiction of the Federal Energy Regulatory Commission (FERC).

If the utility has turned over control of its transmission system to a Regional Transmission Entity (RTE), and if the small generator interconnection process identifies upgrades to the transmission system as necessary to interconnect the small generating facility, then the utility will coordinate with the RTE, and the procedures herein will be adjusted as necessary to satisfy the RTE's requirements with respect to such upgrades.

There are three review paths for the interconnection of generation in Virginia having an output of not more than 20 MW:

Level 1 - A request to interconnect a small generating facility (SGF) no larger than 500 kilowatts (kW) shall be evaluated under the Level 1 process.

Level 2 - A request to interconnect a certified SGF no larger than 2 MW and not qualifying for the Level 1 process shall be evaluated under the Level 2 process.

Level 3 - A request to interconnect an SGF no larger than 20 MW and not qualifying for the Level 1 process or Level 2 process, shall be evaluated under the Level 3 process.

The utility may limit the interconnection of an SGF to a distribution feeder to a capacity substantially less than 20 MW, depending upon the characteristics of that feeder and the potential for upgrading it, as well as the nature of the loads and other generation on the feeder relative to the proposed point of interconnection. If the SGF cannot be safely and reliably interconnected to the utility's distribution feeder, the utility shall work with the IC to interconnect the SGF to the utility's transmission system. In such cases, the interconnection of the SGF may be governed by the regulations promulgated by FERC rather than the regulation of the State Corporation Commission.

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The utility shall designate an employee or office from which the interconnection customer (IC) may informally request information concerning the application process. The name, telephone number, and email address of such contact employee or office shall be made available on the utility's Internet website. Electric system information relevant to the location of the proposed SGF shall be provided to the IC upon request and may include interconnection studies and any other relevant materials, to the extent such provision does not violate confidentiality provisions of prior agreements or release critical infrastructure information. The utility shall comply with reasonable requests for such information unless the information is proprietary or confidential and cannot be provided pursuant to a confidentiality agreement.

The utility shall make reasonable efforts to meet all time frames provided in these regulations unless the utility and the IC agree to a different schedule. If the utility cannot meet a deadline provided herein, it shall notify the IC, explain the reason for the failure to meet the deadline, and provide an estimated time by which it will complete the applicable interconnection procedure in the process.

Each utility shall have on file with the commission terms and conditions applicable to the interconnection of SGFs. Such terms and conditions shall, at a minimum, incorporate this chapter by reference, shall set forth terms and conditions applicable to SGFs for which no Small Generator Interconnection Agreement (SGIA) is executed, and shall not conflict with the provisions of this chapter. The terms and conditions applicable to SGFs for which no SGIA is executed shall be reasonably consistent with the terms and conditions of the SGIA.

B. The commission may waive any or all parts of the provisions of this chapter for good cause shown.

## **20VAC5-320-10. Applicability and scope.**

These regulations are promulgated pursuant to the provisions of the Virginia Electric Utility ~~Restructuring~~ Regulation Act (§ 56-576 et seq. of the Code of Virginia), and they apply to any incumbent electric utility owning, operating, controlling, or having an entitlement to transmission capacity within the Commonwealth. Sections 56-577 and 56-579 of the Act require Virginia's incumbent electric utilities to (i) join or establish regional transmission entities (RTEs) by January 1, 2001, and (ii) seek the commission's authorization to transfer their transmission assets to such RTEs.

Specifically, § 56-577 of the Code of Virginia requires that on or before January 1, 2001, incumbent electric utilities owning, operating, controlling, or having entitlement to transmission capacity join or establish RTEs. The utilities are required to transfer the management and control of their transmission systems to the RTEs, subject to the provisions of § 56-579 of the Code of Virginia.

Additionally, § 56-579 provides that no incumbent electric utility shall transfer to any person any ownership, control, or

operation of any portion of any transmission system within the Commonwealth without obtaining the commission's prior approval.

Finally, certain transfers of utility assets are subject to the Utilities Transfers Act (§ 56-88 et seq. of the Code of Virginia).

In short, incumbent electric utilities that own, operate, control or have entitlement to transmission capacity are subject to three provisions: (i) the obligation to join or establish an RTE, (ii) the obligation to obtain commission approval before transferring ownership, control or operation to an RTE, and (iii) obligations imposed by the Utilities Transfers Act. Although these provisions are distinct, they overlap.

In the interest of administrative efficiency, the commission will utilize a single proceeding in which the utility seeks approval for a proposed transfer under § 56-579 of the Code of Virginia and under the Utilities Transfers Act. In that proceeding, the commission will determine whether (i) the RTE to which the applicant proposes to transfer any ownership or control of, or any responsibility to operate, any portion of its transmission system satisfies the legislative criteria set forth in § 56-579 of the Code of Virginia, and (ii) the transfer otherwise satisfies the provisions of § 56-579 and the Utilities Transfers Act.

Accordingly, these regulations establish:

1. The elements of regional transmission entity structures essential to the public interest, to be applied by the commission in determining whether to authorize transfer of ownership or control from an incumbent electric utility to a regional transmission entity, all as required by § 56-579 of the Code of Virginia;
2. Filing requirements for entities that (i) are required to comply with the mandate of § 56-577 of the Code of Virginia that certain entities join or establish regional transmission entities, and (ii) seek the commission's permission to transfer control, ownership, or responsibility of or for transmission to a regional transmission entity pursuant to § 56-579 of the Code of Virginia and the Utilities Transfers Act; and
3. A schedule for such filings by the entities having obligations under § 56-577 of the Code of Virginia.

## **20VAC5-320-20. Definitions.**

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

"Act" means the Virginia Electric Utility ~~Restructuring~~ Regulation Act.

"Commission" or "SCC" means the State Corporation Commission.

"FERC" means the Federal Energy Regulatory Commission.

"Incumbent electric utility" shall have the same meaning as set forth in § 56-576 of the Code of Virginia.

"Rate pancaking" means the practice of (i) requiring a transmission customer to pay a separate access charge each time the contract path associated with the customer's transaction crosses the boundary of another transmission owner, so as to count more than once the quantity transmitted or (ii) otherwise counting the quantity transmitted more than once in the calculation of the transmission customer's charges for transmission services, ancillary services, or both.

"Regional transmission entities" or "RTEs" means any individual, corporation, cooperative, municipality, partnership, association, company, business, trust, joint venture, or other private legal entity that may receive or has received, by transfer pursuant to this chapter, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.

"Transmission assets" means the facilities and equipment owned, operated, or controlled by incumbent electric utilities, and required for the transmission of electric energy. The term also includes facilities and equipment for the transmission of electric energy when incumbent electric utilities have entitlement to the transmission capacity thereof.

**20VAC5-403-50. Contents of application for a rate increase by a company having more than \$3 million in gross annual operating revenue or that is a subsidiary of a telecommunications company.**

A. An application for a rate increase filed pursuant to this chapter by a small telephone company having more than \$3 million in gross annual operating revenue or that is a subsidiary of a telecommunications company, which means a corporation that owns, manages, or controls any plant or equipment for the conveyance of voice or data messages, either directly or indirectly to or for the public, shall include:

1. The name and post office address of the applicant and the name and post office address of its counsel (if any);
2. A clear description of the proposed tariff changes, and a narrative explaining why an increase in rates is needed, as well as the overall percentage increase in rates proposed;
3. All direct testimony by which the applicant expects to support the rate increase. In lieu of prefiling direct testimony, the applicant may submit an affidavit which certifies that the information in the application is correct and that the applicant adopts the information contained in the schedules as its evidence in support of the application.
4. Exhibits consisting of Schedules 1 through 16 shown in the Appendix to this chapter shall be submitted with the applicant's direct testimony or affidavit adopting the information contained in the schedules.
5. Exhibits consisting of additional schedules may be submitted with the applicant's direct testimony. Such schedules shall be identified as Schedule 17 et seq.

B. All applications shall be filed in an original and 15 copies with the exception of Schedule 12. Two copies of Schedule 12 shall be filed directly with the commission's Division of ~~Public~~ Public Utility Accounting and Finance. Additional copies of Schedule 12 shall be made available to parties upon request. An application shall not be deemed filed with the commission for the purposes of §§ 56-238 and 56-240 of the Code of Virginia unless all information required is filed in conformity with this chapter and accompanying schedules.

C. The selection of a test period is up to the applicant. However, the use of overlapping test periods shall not be permitted.

D. 1. The applicant shall serve a copy of the information required in subdivisions A 1 and A 2 of this section upon the Commonwealth's Attorney and Chairman of the Board of Supervisors of each county (or equivalent officials in counties having alternate forms of government) in this Commonwealth affected by the proposed rate increase and upon the mayor or manager and the attorney of every city and town (or on equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed rate increase.

2. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request either orally or in writing to a specified officer of the applicant.

3. The applicant shall serve a copy of its complete application upon the Division of Consumer Counsel, Office of the Attorney General.

4. All service specified by this section shall be made either by (i) personal delivery, or (ii) by first-class mail, postage prepaid, to the customary place of business or the residence of the person served.

APPENDIX A

Schedule 1

Capital Structure and Cost of Capital Statement

Instructions: This schedule shall state the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, the component cost, and the weighted capital cost, using the format of the attached schedule. This information shall be provided for the test period. In Part A, the test period information should be compatible with the State Corporation Commission Annual Operating Report. The methodology used in constructing the capital structure should be consistent with that approved in the applicant's last rate case. If the applicant wishes to use a different methodology (including a change in cost of equity) in constructing its capital structure in a rate application, it may prepare an additional schedule labelled as Schedule 1(a) explaining the methodology used and justifying any departure from applicant's last rate case.

The amounts and costs for short-term debt, revolving credit agreements, and similar arrangements shall be based on a 13-

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month average over the test year, or, preferably, a daily average during the test year, if available. All other test period amounts are end-of-year. The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates.

## Schedule 1

### Capital Structure and Cost of Capital Statement Test Period

#### A. Capital Structure Per Balance Sheet (\$)

Short-Term Debt  
 Customer Deposits  
 Other Current Liabilities  
 Long-Term Debt  
 Common Equity  
 Investment Tax Credits  
 Other Tax Deferrals  
 Other Liabilities  
 Total Capitalization

#### B. Capital Structure Approved for Ratemaking Purposes (\$)

Short-Term Debt  
 Long-Term Debt  
 Job Development Credits  
 Cost-Free Capital  
 Common Equity  
 Total Capitalization

#### C. Capital Structure Weights for Ratemaking Purposes (%)

Short-Term Debt  
 Long-Term Debt  
 Job Development Credits  
 Cost-Free Capital  
 Common Equity  
 Total Capitalization (100%)

#### D. Component Capital Cost Rates (%)

Short-Term Debt  
 Long-Term Debt  
 Job Development Credits  
 Cost-Free Capital  
 Common Equity (Authorized)

#### E. Component Weighted Cost Rates (%)

Short-Term Debt  
 Long-Term Debt  
 Job Development Credits  
 Cost-Free Capital  
 Common Equity (Authorized)  
 Weighted Cost of Capital

## Schedule 2

### Schedule of Bonds, Mortgages, Other Long-Term Debt, and Cost-Free Capital

Instructions: Provide a description of each issue, amount outstanding, percentage of total capitalization, and annualized cost based on the embedded cost rate. These data shall support the debt cost contained in Schedule 1. Provide a detailed breakdown of all cost-free capital items contained in Schedule 1.

## Schedule 3

### Schedule of All Short-Term Debt, Revolving Credit Agreements, and Similar Arrangements

Instructions: Provide data and explain the methodology used to calculate the cost and balance contained in Schedule 1 for short-term debt, revolving credit agreements, and similar arrangements.

## Schedule 4

### Stockholders' Annual Report

Instructions: Provide a copy of the most recent stockholders' annual report and SEC Form 10K (if SEC Form 10K is available).

## Schedule 5

### Company Profitability and Capital Markets Data

Instructions: This schedule shall be prepared by companies having more than \$3 million in gross annual operating revenue which are not a subsidiary of a telecommunications company, using the definitions provided below and the format of the attached schedule. These companies shall provide data for the two most recent calendar years plus the test period. This information shall be compatible with the latest Stockholders' Annual Reports (including any restatements).

### Definitions

$$\text{Return on Year-End Equity}^* = \frac{\text{Earnings Available for Common Stockholders}}{\text{Year-End Common Equity}}$$

$$\text{Return on Average Equity}^* = \frac{\text{Earnings Available for Common Stockholders}}{\text{The Average of Year-End Equity for the Current \& Previous Year}}$$

$$\text{Earnings Per Share (EPS)} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$$

$$\text{Dividends Per Share (DPS)} = \text{Common Dividends Paid Per Share During the Year}$$

Payout Ratio = DPS/EPS

Average Market Price\*\* = (Yearly High + Yearly Low Price)/2 (if known)

\*Job Development Credits shall not be included as part of equity capital nor shall a deduction be made from earnings for a capital charge on these Job Development Credits.

\*\*An average based on monthly highs and lows is also acceptable. If this alternative is chosen, provide monthly market prices and sufficient data to show how the calculation was made.

Schedule 5

Company Profitability and Capital Market Data Test Period

A. Ratios

Return on Year-End Equity

Return on Average Equity

Earnings Per Share

Dividends Per Share

Payout Ratio

Market Price of Common Stock:

Year's High

Year's Low

Average Price

B. External Funds Raised

External Funds Raised -- All Sources (itemized)

Dollar Amount Raised

Coupon Rate (if applicable)

Rating Service (if applicable)

Average Offering Price (for Stock)

Schedule 6

Coverage Ratios and Cash Flow Profile Data

Instructions: This schedule shall be prepared using the definitions and instructions given below and using the format of the attached schedule for the past two calendar years plus the test period.

- Interest (lines 3, 4, 5) shall include amortization of discount expense and premium on debt without deducting an allowance for borrowed funds used during construction.

- Income taxes (line 2) shall include federal and state income taxes (in Virginia gross receipts tax should be considered State income tax).

- Earnings before interest and taxes (line 6) equals net income plus income taxes plus total interest = (line 1) + (line 2) + (line 5).

- IDC (line 8), where applicable, is total IDC - allowance for borrowed and other funds.

- Cash flow generated (line 14) = (line 1) + (line 9) + (line 10) + (line 11) + (line 12) - (line 8) - (line 13).

- Construction expenditures (line 15) is net of IDC.

Coverage definitions for Schedule 6

$$\text{Pre-Tax Interest Coverage} = \frac{\text{Earnings before Interest \& Taxes}}{\text{Interest}} = \frac{\text{line 6}}{\text{line 5}}$$

$$\text{Common Dividend Coverage} = \frac{\text{Cash Flow Generated}}{\text{Common Dividends}} = \frac{\text{line 14}}{\text{line 16}}$$

$$\text{Cash Coverage of Construction Expenditures} = \frac{\text{Cash Flow Generated}}{\text{Construction}} = \frac{\text{line 14}}{\text{line 15}}$$

Schedule 6

Coverage Ratios and Cash Flow Data Test Period

Interest Coverage Ratios

a. Pre-Tax Method

Cash Flow Coverage Ratios

a. Common Dividend Coverage

b. Cash Flow Coverage of Construction Expenditures

Data for Interest Coverage

Line 1. Net Income

Line 2. Income Taxes

Line 3. Interest on Mortgages

Line 4. Other Interest

Line 5. Total Interest

Line 6. Earnings Before Interest and Taxes

Line 7. Estimated Rental Interest Factor (SEC)

Data for Cash Flow Coverage

Line 1. Net Income

Line 8. Interest During Construction (IDC)

Line 9. Amortization

Line 10. Depreciation

Line 11. Change in Deferred Taxes

Line 12. Change in Investment Tax Credits

Line 13. Preferred Dividends Paid

Line 14. Cash Flow Generated

Line 15. Construction Expenditures

Line 16. Common Dividends Paid

# Regulations

## Schedule 7 Comparative Balance Sheets

Instructions: Provide a comparative balance sheet for the test period and the corresponding 12-month period immediately preceding the test period.

## Schedule 8 Comparative Income Statement

Instructions: Provide a comparative income statement for the test period and the 12-month period immediately preceding the test period.

## Schedule 9 Rate of Return Statement

Instructions: Use the format of the attached schedule. Column 1 should state the Applicant's total Company per books results for the test period. Non-jurisdictional amounts will be shown in Column 2, and Column 3 will reflect

Virginia jurisdictional amounts. Adjustments to test period per books results shall be shown in Column 4. These adjustments shall be explained in Schedule 11. If a calendar year test period is used, Column 1 can be prepared from information filed by Applicant in its annual report to the commission. If a calendar year test period is used, operating revenue line items can be found in Schedule 34 at page 58 of the Annual Report. "Depreciation and Amortization" is set forth on Line 23 of Schedule 35 at page 60 of the Annual Report. "Operating and Maintenance Expense" can be derived by subtracting the amount of depreciation and amortization expense from total operating expenses (Schedule 35, line 68). Interest on customer deposits must be calculated from Applicant's books. Column 6 should show the increase requested by Applicant.

## Schedule 9 Rate of Return Statement Test Period

Total Company Per Books Col. (1)	Virginia Non- Jurisdic. Amounts Col. (2)	Jurisdic. Amounts Col. (3)	Amounts Adjustments Col. (4)	Effect of After Adjustments Col. (5)	After Proposed Increase Col. (6)	Proposed Increase Col. (7)
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### Operating Revenues

Local Service

Toll Service

Access Charges

Miscellaneous

Less: Uncollectible

### Total Revenues

### Operating Expenses

Operating and  
Maintenance Expense

Depreciation and  
Amortization

Income Taxes

Taxes Other than Income  
Taxes

Gain/Loss on Property  
Disposition

### Total Expenses

Operating Income

Less: Charitable  
Donations

Interest Expense on  
Customer Deposits

Net Operating Income --  
Adjusted

Plus: Other Income  
(Expense)

Less: Interest Expense

Preferred Dividend  
Expense

JDC Capital Expense

Income Available for  
Common Equity

Allowance for working  
capital

Net Utility Plant

**Total Rate Base**

**Total Capital for  
Ratemaking**

**Common Equity  
Capital**

**Rate of Return Earned  
on Rate Base**

**Rate of Return Earned  
on Common Equity**

Schedule 10

Statement of Net Original Cost of Utility Plant and Allowances for Working Capital for the Test Year

Instructions: This schedule should be constructed using the ratemaking policies, procedures, and guidelines last prescribed for Applicant by the commission. The schedule should indicate all property held for future use by account number and the date of the planned use should be shown. In a footnote, applicant should identify the amount of plant and working capital devoted to non-regulated business activities, if any. Such plant shall not be included in the rate base. Applicants should use the format described below. The unamortized balance of investment tax credits shall be deducted from the rate base if the telephone company is subject to Option 1 treatment under I.R.S. Code § 46(f). Column (4) adjustments should be explained and detailed in Schedule 11. Columns (2) and (3) only apply to companies with over \$3,000,000 in gross annual operating revenues which are subsidiaries of telecommunications companies.

Schedule 10

Net Original Cost of Utility Plant and Allowances

	Total Company Per Books Col. (1)	Non-Jurisdic. Amounts Col. (2)	Jurisdic. Amounts Col. (3)	Adjustments Col. (4)	Amounts After Adjustments Col. (5)
Telephone Plant in Service					
Telephone Plant under construction					
Property held for future use					

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# Regulations

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## Gross Plant

Less: Reserve for Depreciation

## Net Telephone Plant

## Allowance for Working Capital

Materials and supplies (13-month average)

Cash (20 days of O&M expenses)

## Total Allowance for Working Capital

## Other Rate Base Deductions:

Customer Deposits

Deferred Federal Income Taxes

Customer Advances for Construction

Option 1 Investment Tax Credits

## Total Other Rate Base Deductions

## Rate Base

### Schedule 11 Explanation of Adjustments to Book Amounts

Instructions: All ratemaking adjustments to test period operations (test period and proforma) are to be fully explained in a supporting schedule to the applicant's Schedules 9 and 10. Such adjustments shall be numbered sequentially beginning with operating revenues. Supporting data for each adjustment, including the details of its calculation, should be provided. Examples of adjustments include:

1. Adjustments to annualize changes occurring during the test period.
2. Adjustments to reflect known and certain changes in wage agreements and payroll taxes occurring in the test period and proforma period (the 12-month period following the test period).
3. Adjustments to reflect depreciation and property taxes based on end-of-period plant balances.
4. Adjustments relating to other known changes occurring during the test period or proforma period.
5. Amounts relating to known and certain changes in company operations that take place in the proforma period can be adjusted through the end of the rate year. The rate year shall be defined as the 12 months following the effective date of new rates. The proforma period shall be defined as the 12 months immediately following the test year.

### Schedule 12 Working Papers

Instructions: Provide detailed work papers and supporting schedules of all proposed adjustments. Two copies of this exhibit shall be filed with the commission's ~~Divisions~~ Division of ~~Public~~ Utility Accounting and ~~Economics and~~ Finance. Copies shall be provided to other parties on request. Each schedule shall identify sources of all data. Data shall be clearly identified as actual or estimated.

### Schedule 13 Revenue and Expense Schedule

Instructions: The applicant shall provide information about revenues by primary account (consumer classification) and operating and maintenance expenses by primary account during the test period.

The applicant shall also provide a detailed explanation of all revenue and expense item increases and decreases of more than 10% during the test period as compared to the 12-month period immediately preceding the test period. Worksheets used to compute the percentage change should be available for review upon request.

### Schedule 14 Explanation of Proposed Revenue Requirement Calculation

Instructions: Provide a schedule describing the methodology used to determine the revenue requirement shown on Schedule 9, Column 6.

Schedule 15  
Additional Revenues

Instructions: Show the calculations of the additional gross revenues and percentage increases by customer classes that would be produced by the new rates during the test period.

Schedule 16  
Statement of Compliance

Instructions: Include the following statement signed by the person(s) sponsoring the application:

I, (Name of Sponsoring Party), (Title), affirm that this application complies with the commission's rules for small investor-owned telephone utilities' applications for increases in rates, and I further affirm that the schedules filed to support the application comply with the instructions for the schedules set forth in the Appendix to those rules.

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(Signature of Sponsoring Party)

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(Date)

V.A.R. Doc. No. R13-3583; Filed June 18, 2013, 4:13 p.m.

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Total Maximum Daily Load Studies of Waters in the Cities of Hampton, Newport News, and Poquoson, and in York County

The Virginia Department of Environmental Quality (DEQ) will host a public meeting on water quality studies for Poquoson River and Back River, along with several tributaries located in the Cities of Hampton, Newport News, and Poquoson, and in York County on Tuesday, July 30, 2013.

The meeting will start at 6 p.m. at the Sandy Bottom Nature Park Conference Room located at 1255 Big Bethel Road, Hampton VA 23666. The purpose of the meeting is to provide information and discuss the final outcomes of the study with community members and local government.

Poquoson River, Hodges Creek, Lyons Creek, Floyds Bay, Cabin Creek, Roberts Creek, White House Creek, Bennett Creek, Easton Creek, Patricks Creek, Back Creek, Lower Chisman Creek, and Lambs Creek were identified in Virginia's 2010 Water Quality Assessment Integrated Report as impaired due to violations of the state's water quality standards for recreation bacteria and shellfish consumption bacteria (Enterococci and Fecal coliform) and do not support the Designated Uses.

The Back River watershed includes the northwest and southwest branches, Brick Kiln Creek, Newmarket Creek, Front Cove, Cedar Creek, Harris Creek, Long and Grunland Creeks, Tabbs Creek, Topping Creek, and Wallace Creek. These waterbodies were also identified in Virginia's 2010

Water Quality Assessment Integrated Report as impaired due to violations of the state's water quality standards for recreation bacteria and shellfish consumption bacteria (Enterococci and Fecal coliform) and do not support the Designated Uses.

Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop total maximum daily loads (TMDLs) for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports.

As a result of the studies, DEQ has developed a TMDL for each of the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, pollutant levels have to be reduced to the TMDL amount. The Virginia Departments of Environmental Quality, Conservation and Recreation, and Health are working to identify the sources of pollution in the watersheds of these streams.

The public comment period on materials presented at this meeting will extend from July 31, 2013, to August 29, 2013. For additional information or to submit comments, contact Jennifer Howell, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 518-2111, or email [jennifer.howell@deq.virginia.gov](mailto:jennifer.howell@deq.virginia.gov).

Additional information is also available on the DEQ website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL.aspx>.

## DEPARTMENT OF FORENSIC SCIENCE

### Approval of Field Tests for Detection of Drugs

In accordance with 6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs, and under the authority of the Code of Virginia, the following field tests for detection of drugs are approved field tests:

#### ODV INCORPORATED

13386 INTERNATIONAL PARKWAY  
JACKSONVILLE, FLORIDA 32218-2383

#### ODV NarcoPouch

##### Drug or Drug Type:

Heroin  
Amphetamine  
Methamphetamine  
3,4-Methylenedioxymethamphetamine (MDMA)  
Cocaine Hydrochloride  
Cocaine Base

##### Manufacturer's Field Test:

902 – Marquis Reagent  
902 – Marquis Reagent  
902 – Marquis Reagent  
902 – Marquis Reagent  
904 or 904B – Cocaine HCl and Base Reagent  
904 or 904B – Cocaine HCl and Base Reagent

Barbiturates	905 – Dille-Koppanyi Reagent
Lysergic Acid Diethylamide (LSD)	907 – Ehrlich's (Modified) Reagent
Marijuana	908 – Duquenois – Levine Reagent
Hashish Oil	908 – Duquenois – Levine Reagent
Marijuana	909 – K N Reagent
Hashish Oil	909 – K N Reagent
Phencyclidine (PCP) Reagent	914 – PCP Methaqualone
Heroin	922 – Opiates Reagent
Methamphetamine	923 – Methamphetamine/Ecstasy Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	923 – Methamphetamine/Ecstasy Reagent
Heroin	924 – Mecke's (Modified) Reagent
Diazepam	925 – Valium/Ketamine Reagent
Ketamine	925 – Valium/Ketamine Reagent
Ephedrine	927 – Ephedrine Reagent
Gamma–Hydroxybutyrate (GHB)	928 – GHB Reagent
<b>ODV NarcoTest</b>	
<u>Drug or Drug Type:</u>	<u>Manufacturer's Field Test:</u>
Heroin	7602 – Marquis Reagent
Amphetamine	7602 – Marquis Reagent
Methamphetamine	7602 – Marquis Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	7602 – Marquis Reagent
Barbiturates	7605 – Dille-Koppanyi Reagent
Lysergic Acid Diethylamide (LSD)	7607 – Ehrlich's (Modified) Reagent
Marijuana	7608 – Duquenois Reagent
Hashish Oil	7608 – Duquenois Reagent
Marijuana	7609 – KN Reagent
Hashish Oil	7609 – KN Reagent
Cocaine Hydrochloride	7613 – Scott (Modified) Reagent
Cocaine Base	7613 – Scott (Modified) Reagent
Phencyclidine (PCP)	7614 – PCP Methaqualone Reagent
Heroin	7622 – Opiates Reagent
Methamphetamine	7623– Methamphetamine/Ecstasy Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	7623– Methamphetamine/Ecstasy Reagent
Heroin	7624 – Mecke's Reagent
Diazepam	7625 – Valium/Ketamine Reagent
Ketamine	7625 – Valium/Ketamine Reagent

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## General Notices/Errata

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Ephedrine

7627 – Chen's Reagent - Ephedrine

Gamma-Hydroxybutyrate (GHB)

7628 – GHB Reagent

SIRCHIE FINGERPRINT LABORATORIES

100 HUNTER PLACE

YOUNGSVILLE, NORTH CAROLINA 27596

### **NARK**

#### Drug or Drug Type:

Narcotic Alkaloids

Heroin

Morphine

Amphetamine

Methamphetamine

Opium Alkaloids

Heroin

Morphine

Amphetamine

Methamphetamine

3,4-Methylenedioxymethamphetamine (MDMA)

Meperidine (Demerol) (Pethidine)

Heroin

Morphine

Cocaine Hydrochloride

Cocaine Base

Procaine

Tetracaine

Barbiturates

Heroin

Morphine

Amphetamine

Methamphetamine

Lysergic Acid Diethylamide (LSD)

Marijuana

Hashish

Hashish Oil

Tetrahydrocannabinol (THC)

Marijuana

#### Manufacturer's Field Test:

1 – Mayer's Reagent

2 – Marquis Reagent

3 – Nitric Acid

3 – Nitric Acid

4 – Cobalt Thiocyanate Reagent

5 – Dille-Koppanyi Reagent

6 – Mandelin Reagent

6 – Mandelin Reagent

6 – Mandelin Reagent

6 – Mandelin Reagent

7 – Ehrlich's Reagent

8 – Duquenois Reagent

8 – Duquenois Reagent

8 – Duquenois Reagent

8 – Duquenois Reagent

9 – NDB (Fast Blue B Salt) Reagent

Hashish	9 – NDB (Fast Blue B Salt) Reagent
Hashish Oil	9 – NDB (Fast Blue B Salt) Reagent
Tetrahydrocannabinol (THC)	9 – NDB (Fast Blue B Salt) Reagent
Cocaine Base	13 – Cobalt Thiocyanate/Crack Test

**NARK II**

Drug or Drug Type:

Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Heroin
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Cocaine Hydrochloride
Cocaine Base
Phencyclidine (PCP)
Opiates
Heroin
Morphine
Buprenorphine
Heroin
3,4-Methylenedioxymethamphetamine (MDMA)
Pentazocine
Ephedrine
Diazepam
Methamphetamine
Narcotic Alkaloids
Heroin
Morphine

Manufacturer's Field Test:

01 – Marquis Reagent
02 – Nitric Acid
02 – Nitric Acid
03 – Dille-Koppanyi Reagent
04 – Ehrlich's Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
07 – Scott's (Modified) Reagent
07 – Scott's (Modified) Reagent
09 – Phencyclidine Reagent
10 – Opiates Reagent
10 – Opiates Reagent
10 – Opiates Reagent
10 – Special Opiates Reagent
11 – Mecke's Reagent
11 – Mecke's Reagent
12 – Talwin/Pentazocine Reagent
13 – Ephedrine Reagent
14 – Valium Reagent
15 – Methamphetamine (Secondary Amines Reagent)
19 – Mayer's Reagent
19 – Mayer's Reagent
19 – Mayer's Reagent

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## General Notices/Errata

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Amphetamine	19 – Mayer's Reagent
Methamphetamine	19 – Mayer's Reagent
3,4-Methylenedioxyprovalerone (MDPV)	24 – MDPV (Bath Salts) Reagent
Beta-keto-N-methyl-3,4-benzodioxolybutanamine (other name: butylone)	24 – MDPV Synthetic Cathinones Reagent
3,4-methylenedioxyethcathinone (other name: ethylone)	24 – MDPV Synthetic Cathinones Reagent
3,4-methylenedioxymethcathinone (other name: methylone)	24 – MDPV Synthetic Cathinones Reagent
Naphthylprovalerone (other name: naphyrone)	24 – MDPV Synthetic Cathinones Reagent
Beta-keto-methylbenzodioxolypentanamine (other name: pentylone)	24 – MDPV Synthetic Cathinones Reagent
4-Methylmethcathinone (Mephedrone)	25 – Mephedrone (Bath Salts) Reagent
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)	26 – A-PVP (Synthetic Stimulant) Reagent
4-Bromo-2,5-dimethoxyphenethylamine (other name: 2C-B)	29 - 2C Reagent
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C)	29 – 2C Reagent
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E)	29 – 2C Reagent
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I)	29 – 2C Reagent
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N)	29 – 2C Reagent
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)	29 – 2C Reagent
Psilocybin	30 – Psilocybin/Psilocin Reagent (NARK20030)
Methamphetamine	31 – Liebermann Reagent
Morphine	31 – Liebermann Reagent
ARMOR HOLDINGS, INCORPORATED	
13386 INTERNATIONAL PARKWAY	
JACKSONVILLE, FLORIDA 32218-2383	
<b>NIK</b>	
<u>Drug or Drug Type:</u>	<u>Manufacturer's Field Test:</u>
Heroin	Test A 6071 – Marquis Reagent
Amphetamine	Test A 6071 – Marquis Reagent
Methamphetamine	Test A 6071 – Marquis Reagent
3,4-Methylenedioxymethamphetamine (MDMA)	Test A 6071 – Marquis Reagent
Morphine	Test B 6072 – Nitric Acid Reagent
Barbiturates	Test C 6073 – Dille-Koppanyi Reagent
Lysergic Acid Diethylamide (LSD)	Test D 6074 – LSD Reagent System
Marijuana	Test E 6075 – Duquenois – Levine Reagent
Hashish Oil	Test E 6075 – Duquenois – Levine Reagent
Tetrahydrocannabinol	Test E 6075 – Duquenois – Levine Reagent
Cocaine Hydrochloride	Test G 6077 – Scott (Modified) Reagent

Cocaine Base	Test G 6077 – Scott (Modified) Reagent
Cocaine Hydrochloride	6500 or 6501 – Cocaine ID Swab
Cocaine Base	6500 or 6501 – Cocaine ID Swab
Phencyclidine (PCP)	Test J 6079 – PCP Reagent System
Heroin	Test K 6080 – Opiates Reagent
Heroin	Test L 6081 – Brown Heroin Reagent System
Gamma-Hydroxybutyrate (GHB)	Test O 6090 – GHB Reagent
Ephedrine	Test Q 6085 – Ephedrine Reagent
Pseudoephedrine	Test Q 6085 – Ephedrine Reagent
Diazepam	Test R 6085 – Valium Reagent
Methamphetamine	Test U 6087 – Methamphetamine Reagent
3,4-Methylenedioxymethamphetamine (MDMA)	Test U 6087 – Methamphetamine Reagent
Methadone	Test W 6088 – Mandelin Reagent System

MISTRAL SECURITY INCORPORATED  
7910 WOODMONT AVENUE, SUITE 820  
BETHESDA, MARYLAND 20814

Drug or Drug Type:

Heroin  
Amphetamine  
Methamphetamine  
Marijuana  
Hashish Oil  
Methamphetamine  
Heroin  
Marijuana  
Hashish Oil  
Cocaine Hydrochloride  
Cocaine Base  
Marijuana  
Phencyclidine  
Amphetamine  
Ketamine  
Methamphetamine  
Ephedrine  
Heroin  
Methadone

Manufacturer's Field Test:

Detect 4 Drugs Aerosol  
Meth 1 and 2 Aerosol  
Herosol Aerosol  
Cannabispray 1 and 2 Aerosol  
Cannabispray 1 and 2 Aerosol  
Coca-Test Aerosol  
Coca-Test Aerosol  
Pen Test – D4D  
Pen Test – D4D

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## General Notices/Errata

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Buprenorphine	Pen Test – D4D
Opium	Pen Test – D4D
Phenobarbital	Pen Test – Barbitusol
Marijuana	Pen Test – Cannabis Test
Phencyclidine	Pen Test – Coca Test
Cocaine Hydrochloride	Pen Test – Coca Test
Cocaine base	Pen Test – Coca Test
Buprenorphine	Pen Test – C&H Test
Cocaine Hydrochloride	Pen Test – C&H Test
Cocaine base	Pen Test – C&H Test
Ephedrine	Pen Test – C&H Test
Ketamine	Pen Test – C&H Test
Heroin	Pen Test – C&H Test
Lysergic Acid Diethylamide (LSD)	Pen Test – C&H Test
Methadone	Pen Test – C&H Test
Methamphetamine	Pen Test – C&H Test
Heroin	Pen Test – Herosol
Methadone	Pen Test – Herosol
Lysergic Acid Diethylamide (LSD)	Pen Test – LSD Test
Methamphetamine	Pen Test – Meth/X Test
3,4-Methylenedioxymethamphetamine (MDMA)	Pen Test – Meth/X Test
Morphine	Pen Test – Opiatest
Opium	Pen Test – Opiatest
Diazepam	Pen Test – BZO
Ephedrine	Pen Test – Ephedrine
Pseudoephedrine	Pen Test – Ephedrine

JANT PHARMACAL CORPORATION

16255 VENTURA BOULEVARD, SUITE 505

ENCINO, CALIFORNIA 91436

Formerly available through:

MILLENNIUM SECURITY GROUP

### **Accutest IDenta**

#### Drug or Drug Type:

Marijuana

Hashish Oil

Heroin

#### Manufacturer's Field Test:

Marijuana/Hashish (Duquenois-Levine Reagent)

Marijuana/Hashish (Duquenois-Levine Reagent)

Heroin Step 1 and Step 2

Cocaine Hydrochloride  
Cocaine Base  
3,4-Methylenedioxymethamphetamine (MDMA)  
Methamphetamine  
COZART PLC  
92 MILTON PARK  
ABINGDON, OXFORDSHIRE ENGLAND OX14 4RY

Drug or Drug Type:

Cocaine  
LYNN PEAVEY COMPANY  
10749 WEST 84th TERRACE  
LEXEXA, KS 66214

**QuickCheck**

Drug or Drug Type:

Marijuana  
Marijuana  
Hashish Oil  
Hashish Oil  
Heroin  
Heroin  
Cocaine Hydrochloride  
Cocaine Base  
Methamphetamine  
Methamphetamine  
MDMA  
MDMA  
M.M.C. INTERNATIONAL B.V.  
FRANKENTHALERSTRAAT 16-18  
4816 KA BREDA  
THE NETHERLANDS

Drug or Drug Type:

Heroin  
Morphine  
Amphetamine  
Methamphetamine  
Codeine

Cocaine/Crack Step 1 and Step 2  
Cocaine/Crack Step 1 and Step 2  
MDMA Step 1 and Step 2  
Methamphetamine Step 1 and Step 2

Manufacturer's Field Test:

Cocaine Solid Field Test

Manufacturer's Field Test:

Marijuana – 10120  
Marijuana – 10121  
Marijuana – 10120  
Marijuana – 10121  
Marquis – 10123  
Heroin - 10125  
Cocaine – 10124  
Cocaine – 10124  
Meth/Ecstasy – 10122  
Marquis – 10123  
Meth/Ecstasy – 10122  
Marquis – 10123

Manufacturer's Field Test:

Opiates/Amphetamine Test (Ampoule)  
Opiates/Amphetamine Test (Ampoule)  
Opiates/Amphetamine Test (Ampoule)  
Opiates/Amphetamine Test (Ampoule)  
Opiates/Amphetamine Test (Ampoule)

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## General Notices/Errata

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Marijuana	Cannabis Test (Ampoule)
Hashish Oil	Cannabis Test (Ampoule)
Cocaine Hydrochloride	Cocaine/Crack Test (Ampoule)
Cocaine base	Cocaine/Crack Test (Ampoule)
Heroin	Heroin Test (Ampoule)
Ketamine	Ketamine Test (Ampoule)
Methadone	Methadone Test (Ampoule)
Methamphetamine	Crystal Meth/XTC Test (Ampoule)
3,4-Methylenedioxymethamphetamine (MDMA)	Crystal Meth/XTC Test (Ampoule)
Morphine	M&H Test (Ampoule)
Heroin	M&H Test (Ampoule)
Ephedrine	Ephedrine HCL Test (Ampoule)
Pseudoephedrine	Ephedrine HCL Test (Ampoule)
Pentazocine	Pentazocine Test (Ampoule)
Buprenorphine	Buprenorphine HCL Test (Ampoule)
Gamma–butyrolactone (GBL)	GBL Test (Ampoule)
Gamma–hydroxybutyric acid (GHB)	GHB Test (Ampoule)
Oxycodone	Oxycodone Test (Ampoule)
Oxymetholone	Steroids Test B (Ampoule)
Testosterone	Steroids Test B (Ampoule)
Methandrostenolone	Steroids Test B (Ampoule)
Phenylacetone	PMK/BMK(BMK) Test (Ampoule)
Lysergic Acid Diethylamide (LSD)	LSD Test (Ampoule)
Phencyclidine (PCP)	PCP Test (Ampoule)
Methaqualone	Methaqualone Test (Ampoule)
Amobarbital	Barbiturates Test (Ampoule)
Pentobarbital	Barbiturates Test (Ampoule)
Phenobarbital	Barbiturates Test (Ampoule)
Secobarbital	Barbiturates Test (Ampoule)
Propoxyphene	Propoxyphene Test (Ampoule)
Diazepam	V&R Test (Ampoule)
<u>Drug or Drug Type:</u>	<u>Manufacturer's Field Test:</u>
Cocaine Hydrochloride	Cocaine/Crack Test (Spray)
Cocaine base	Cocaine/Crack Test (Spray)
Cocaine Hydrochloride	Cocaine Trace Wipes
Cocaine base	Cocaine Trace Wipes

Morphine

Heroin

3,4-Methylenedioxyamphetamine (MDMA)

Methamphetamine

Amphetamine

Opiate Cassette

Opiate Cassette

MDMA/Ecstasy Cassette

Methamphetamine Cassette

Amphetamine Cassette

### STATE WATER CONTROL BOARD

#### Proposed Consent Order for the City of Alexandria

An enforcement action has been proposed for the City of Alexandria for alleged violations at the Alexandria Transit Company Operations and Maintenance Facility. The action seeks to resolve the unauthorized discharge of oil to state waters. The consent order describes a settlement to resolve these violations. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Daniel Burstein will accept comments by email, [daniel.burstein@deq.virginia.gov](mailto:daniel.burstein@deq.virginia.gov), FAX (703) 583-3821, or postal mail, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from July 16, 2013, through August 15, 2013.

#### Proposed Consent Order for the Town of Surry

An enforcement action amendment has been proposed for the Town of Surry for alleged violations at the wastewater treatment facility on 11463 Rolfe Highway in Surry, Virginia. The consent order amendment requires a change in the schedule of a facility upgrade/expansion. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Frank Lupini will accept comments by email at [frank.lupini@deq.virginia.gov](mailto:frank.lupini@deq.virginia.gov), FAX (804) 527-5106, or postal mail, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from July 15, 2013, to August 15, 2013.

#### Notice of Intent to Provide § 401 Water Quality Certification for Norfolk District Corps of Engineers Regional Permits

Pursuant to Virginia Water Protection Permit Regulation 9VAC25-210-130 H, the State Water Control Board (board) is giving notice of its intent to provide § 401 Water Quality Certification for activities authorized by the U.S. Army Corps of Engineers (USACE) Norfolk District Regional Permits (RP's) after considering public comment for a 30-day period starting July 2, 2013.

On March 20, 2013, the U.S. Army Corps of Engineers (Corps) Norfolk District published a notice of their proposed reissuance and modification of several Norfolk District Regional Permits (RP's), Letters of Permission (LOP's), and their general conditions. The following Regional Permits

were reissued and/or modified, with an effective date of August 15, 2013: RP-01, RP-02, RP-05, RP-15, RP-17, RP-18, RP-19, RP-20, and RP-22. Certain subcategories of activities in previous regional permits have been combined into new/reissued regional permits. LOP 1 and LOP 2 have been replaced with reissued/new regional permits RP-01 and RP-02, respectively. Certain dredging activities previously authorized under RP-40 have been combined into RP-02, thus eliminating the RP-40.

The State Water Control Board hereby proposes unconditional § 401 Water Quality Certification for the following Norfolk District Regional Permits as meeting the requirements of the Virginia Water Protection Permit Regulation, which serves as the Commonwealth's § 401 Water Quality Certification:

RP-05: Construction of Small Impoundments

RP-15: Maintenance of Certain Ditches

RP-17: Private Piers and Mooring Piles

RP-18: Private Piers not covered by RP-17

RP-19: Certain Activities covered by VMRC and/or Local Wetland Boards

RP-20: Development of State Owned and Operated Artificial Fin and Shellfish Reefs

RP-22: Installation of Certain Structures in Lake Gaston

With regard to RP-01 for Virginia Department of Transportation projects, the State Water Control Board proposes to continue to process applications for individual § 401 Certification through a Virginia Water Protection General or Individual Permit pursuant to 9VAC25-210-10 et seq., with the following exception as noted in 9VAC25-210-220 B:

"The board may waive the requirement for a VWP individual permit when the proposed activity qualifies for a permit issued by the USACE and receives a permit from the VMRC, pursuant to Chapter 12 (Section 28.2-1200 et seq.) or Chapter 13 (§ 28.2-1200 et seq.) of Title 28.2 of the Code of Virginia, and the activity does not impact instream flows."

With regard to RP-02, the State Water Control Board grants § 401 Certification for RP-02, provided that:

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## General Notices/Errata

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The prospective permittee has ensured that the proposed dredging in water body segments on the current effective § 303(d) total maximum daily load (TMDL) priority list or water body segments with an approved TMDL will not exacerbate impairment of water body segments and that the dredging is consistent with any waste load allocation, limit, or condition imposed by an approved TMDL. Information regarding water bodies on the § 303(d) priority list and approved TMDLs is available on the Department of Environmental Quality's website at: <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs.aspx>.

The board can only issue final § 401 Certification of a nationwide or regional USACE permit if the permit meets the requirements of the VWP regulation and after advertising and accepting public comment for 30 days on its intent to provide certification.

The State Water Control Board will issue its final § 401 Water Quality Certification for activities authorized by the U.S. Army Corps of Engineers (USACE) Norfolk District permits at the end of the 30-day comment period and after any comments received are considered. Written comments, including those by email, must be received no later than 5 p.m. on August 1, 2013, and should be submitted to David L. Davis at the address given below. Only those comments received within this period will be considered by the board. Written comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments.

Contact Information: David L. Davis, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4105, or email [dave.davis@deq.virginia.gov](mailto:dave.davis@deq.virginia.gov).

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* [varegs@dls.virginia.gov](mailto: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/connect/commonwealth-calendar>.

**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/documents/cumultab.pdf>.

**Filing Material for Publication in the Virginia Register of Regulations:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works 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.

#### DEPARTMENT OF GENERAL SERVICES

**Title of Regulation:** **1VAC30-41. Regulation for the Certification of Laboratories Analyzing Drinking Water.**

**Publication:** 29:21 VA.R. 2531-2546 June 17, 2013.

**Correction to Proposed Regulation:**

Page 2537, 1VAC30-41-90 B 5, third line, change "which" to "whom" after "to"

VA.R. Doc. No. R10-2245; Filed June 24, 2013, 11:34 a.m.