



VIRGINIA

REGISTER OF REGULATIONS

VOL. 30 ISS. 17

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

APRIL 21, 2014

TABLE OF CONTENTS

| | |
|--|------|
| Register Information Page | 2265 |
| Publication Schedule and Deadlines | 2266 |
| Petitions for Rulemaking | 2267 |
| Notices of Intended Regulatory Action | 2268 |
| Regulations | 2270 |
| 1VAC20-40. Voter Registration (Proposed) | 2270 |
| 4VAC20-280. Pertaining to Speckled Trout and Red Drum (Final) | 2271 |
| 4VAC20-510. Pertaining to Amberjack and Cobia (Final) | 2272 |
| 4VAC20-620. Pertaining to Summer Flounder (Final) | 2273 |
| 4VAC20-620. Pertaining to Summer Flounder (Emergency) | 2274 |
| 4VAC20-900. Pertaining to Horseshoe Crab (Final) | 2276 |
| 4VAC20-950. Pertaining to Black Sea Bass (Final) | 2278 |
| 9VAC25-20. Fees for Permits and Certificates (Forms) | 2279 |
| 9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity (Forms) | 2279 |
| 9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (Forms) | 2279 |
| 9VAC25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities (Forms) | 2279 |
| 9VAC25-210. Virginia Water Protection Permit Program Regulation (Forms) | 2279 |
| 9VAC25-610. Groundwater Withdrawal Regulations (Forms) | 2279 |
| 9VAC25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre (Forms) | 2279 |
| 9VAC25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (Forms) | 2279 |
| 9VAC25-680. Virginia Water Protection General Permit for Linear Transportation Projects (Forms) | 2279 |
| 9VAC25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (Forms) | 2280 |
| 10VAC5-200. Payday Lending (Final) | 2281 |
| Governor | 2295 |
| General Notices/Errata | 2298 |

Virginia Code Commission

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

THE VIRGINIA REGISTER OF REGULATIONS (USPS 001-831) is published biweekly by Matthew Bender & Company, Inc., 1275 Broadway, Albany, NY 12204-2694 for \$209.00 per year. Periodical postage is paid in Albany, NY and at additional mailing offices. POSTMASTER: Send address changes to The Virginia Register of Regulations, 136 Carlin Road, Conklin, NY 13748-1531.

VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 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.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Robert L. Tavenner**.

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.

PUBLICATION SCHEDULE AND DEADLINES

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

April 2014 through June 2015

| <u>Volume: Issue</u> | <u>Material Submitted By Noon*</u> | <u>Will Be Published On</u> |
|----------------------|--------------------------------------|-----------------------------|
| 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 |
| 31:1 | August 20, 2014 | September 8, 2014 |
| 31:2 | September 3, 2014 | September 22, 2014 |
| 31:3 | September 17, 2014 | October 6, 2014 |
| 31:4 | October 1, 2014 | October 20, 2014 |
| 31:5 | October 15, 2014 | November 3, 2014 |
| 31:6 | October 29, 2014 | November 17, 2014 |
| 31:7 | November 12, 2014 | December 1, 2014 |
| 31:8 | November 25, 2014 (Tuesday) | December 15, 2014 |
| 31:9 | December 10, 2014 | December 29, 2014 |
| 31:10 | December 23, 2014 (Tuesday) | January 12, 2015 |
| 31:11 | January 7, 2015 | January 26, 2015 |
| 31:12 | January 21, 2015 | February 9, 2015 |
| 31:13 | February 4, 2015 | February 23, 2015 |
| 31:14 | February 18, 2015 | March 9, 2015 |
| 31:15 | March 4, 2015 | March 23, 2015 |
| 31:16 | March 18, 2015 | April 6, 2015 |
| 31:17 | April 1, 2015 | April 20, 2015 |
| 31:18 | April 15, 2015 | May 4, 2015 |
| 31:19 | April 29, 2015 | May 18, 2015 |
| 31:20 | May 13, 2015 | June 1, 2015 |
| 31:21 | May 27, 2015 | June 15, 2015 |

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Title of Regulation: 18VAC85-110. Regulations Governing the Practice of Licensed Acupuncturists.

Statutory Authority: §§ 54.1-2400 and 54.1-2956.9 of the Code of Virginia.

Name of Petitioner: Leslie Stone.

Nature of Petitioner's Request: To amend requirements for graduates of nonaccredited educational programs in acupuncture to allow consideration of transcripts from acupuncture programs in the United States that are not accredited by the Accreditation Commission for Acupuncture and Oriental Medicine.

Agency's Decision: Request denied.

Statement of Reason for Decision: On March 24, 2014, the board received a request from the petitioner to withdraw the petition, so the agency will not initiate rulemaking.

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

VA.R. Doc. No. R14-11; Filed March 27, 2014, 11:43 a.m.

BOARD OF PHARMACY

Agency Decision

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

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

Name of Petitioner: Daniel Colpo.

Nature of Petitioner's Request: Prohibit acceptance of coupons for dispensing as it has potential for medication safety concerns through incomplete DUR/Profile data and transcription errors.

Agency's Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 26, 2014, the board considered the petition and comments, which were all in support of the request. Following a lengthy discussion, the board concluded that it needed additional information about what other states have adopted and some legal advice from its board counsel. For that purpose, the matter was referred to the Regulation Committee of the board for further consideration. While the board does not intend to initiate rulemaking at this time, the committee will make a

recommendation to the full board at the board's meeting in June.

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

VA.R. Doc. No. R14-04; Filed March 26, 2014, 2:54 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

DEPARTMENT (BOARD) OF JUVENILE JUSTICE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department (Board) of Juvenile Justice intends to consider amending **6VAC35-170, Minimum Standards for Research Involving Human Subjects or Records of the Department of Juvenile Justice**. The purpose of the proposed action is to update the regulatory provisions to reflect administrative changes and promote best practice.

The department, through an advisory committee, anticipates the following changes: (i) clarify the definition of "minimal risk" to mirror the federal definition for prisoners; (ii) clarify the scope of the exemptions provided for in 6VAC35-170-90; (iii) expand and clarify the requirements for proposals for external research provided for in 6VAC35-170-100, including specific provisions for protecting confidentiality; (iv) require annual progress reports when the research is not completed within one year of approval; (v) clarify requirements for research proposals not involving human research, including aggregate data requests and collaborative research; (vi) clarify the conflict of interest provision when a member of the committee is seeking to conduct research by incorporating an abstention provision; (vii) strengthen the informed consent requirements provided for in 6VAC35-170-160; and (viii) clarify the requirements for reports of the findings of the study. Other changes may be made as a result of the review.

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

This Notice of Intended Regulatory Action serves as the report of the findings of the regulatory review pursuant to § 2.2-4007.1 of the Code of Virginia.

Statutory Authority: §§ 66-10 and 66-10.1 of the Code of Virginia.

Public Comment Deadline: May 21, 2014.

Agency Contact: Barbara Peterson-Wilson, Regulatory and Policy Coordinator, Department of Juvenile Justice, 600 East Main Street, 20th Floor, P.O. Box 1110, Richmond, VA 23218, telephone (804) 588-3902, FAX (804) 371-6490, or email barbara.peterson-wilson@djj.virginia.gov.

VA.R. Doc. No. R14-3973; Filed March 19, 2014, 4:07 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Barbers and Cosmetology intends to consider amending **18VAC41-70, Esthetics Regulations**. The purpose of the proposed action is to allow for an apprenticeship program as a means to obtain an esthetics license. The board also seeks to amend its current regulations to ensure they are (i) as least intrusive and burdensome as possible, while still protecting the health, safety, and welfare of the public; (ii) clearly written and easily understandable; and (iii) representative of the current state of affairs of the industries.

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

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Comment Deadline: May 21, 2014.

Agency Contact: Demetrios J. Melis, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email barbercosmo@dpor.virginia.gov.

VA.R. Doc. No. R14-3985; Filed March 28, 2014, 8:49 a.m.

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Hearing Aid Specialists and Opticians intends to consider amending **18VAC80-20, Board for Hearing Aid Specialists Regulations**. The purpose of the proposed action is to eliminate the examination fee cap to consider more modernized testing methods. The board also seeks to ensure its regulations are the least intrusive and burdensome as possible, while still protecting the health, safety, and welfare of the public; are clearly written and easily understandable; and are representative of the industry's current state of affairs.

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

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Comment Deadline: May 21, 2014.

Agency Contact: Demetrios J. Melis, Executive Director, Board for Hearing Aid Specialists and Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email hearingaidspec@dpor.virginia.gov.

VA.R. Doc. No. R14-3984; Filed March 28, 2014, 8:50 a.m.

Notices of Intended Regulatory Action

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Hearing Aid Specialists and Opticians intends to consider amending **18VAC80-20, Board for Hearing Aid Specialists Regulations**. The purpose of the proposed action is to adjust the licensing fee structure. The board must establish fees adequate to support the costs of board operations and a proportionate share of the Department of Professional and Occupational Regulation's (DPOR) operations. DPOR is funded entirely from revenue collected for license applications, renewal, examination fees, and other licensing fees and receives no general fund money. DPOR is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fee revenue collected on behalf of the various boards funds the department's authorized special revenue appropriation. The board has no other source of revenue from which to fund its operations.

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

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Comment Deadline: May 21, 2014.

Agency Contact: Demetrios J. Melis, Executive Director, Board for Hearing Aid Specialists and Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email hearingaidspec@dpor.virginia.gov.

VA.R. Doc. No. R14-4011; Filed March 28, 2014, 8:51 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Hearing Aid Specialists and Opticians intends to considering amending **18VAC80-30, Opticians Regulations**. The purpose of the proposed action is to amend the regulation to adjust the licensing fee structure. The board must establish fees adequate to support costs of board operations and a proportionate share of the Department of Professional and Occupational Regulation's (DPOR) operations. DPOR is funded entirely from revenue collected for license applications, renewal, examination fees, and other licensing fees and receives no general fund money. DPOR is self-supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fee revenue collected on behalf of the various boards funds DPOR's authorized special revenue appropriation. The board has no other source of revenue from which to fund its operations.

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

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Comment Deadline: May 21, 2014.

Agency Contact: Demetrios J. Melis, Executive Director, Board for Hearing Aid Specialists and Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email hearingaidspec@dpor.virginia.gov.

VA.R. Doc. No. R14-3948; Filed March 28, 2014, 8:50 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Proposed Regulation

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.

Title of Regulation: **1VAC20-40. Voter Registration (amending 1VAC20-40-10; adding 1VAC20-40-90).**

Statutory Authority: §§ 24.2-103 and 24.2-404 of the Code of Virginia; 42 USC 1973gg-6.

Public Hearing Information:

May 14, 2014 - 9 a.m. - General Assembly Building,
201 North Ninth Street, House Room C, Richmond VA

Public Comment Deadline: May 12, 2014.

Agency Contact: Myron McClees, 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.

Background: Pursuant to Chapter 725 of the 2013 Acts of Assembly, which requires a new voter identification standard effective July 1, 2014, the State Board of Elections is proposing amendments to its voter registration regulations related to the creation of voter photo identification cards. Subdivision A 3 of § 24.2-404 of the Code of Virginia requires that the State Board of Elections provide a card bearing a voter's photograph to any requesting registered voter who does not already possess one of the acceptable identification cards listed in subsection B of § 24.2-643 of the Code of Virginia.

Summary:

The proposed amendments (i) establish the situations when a voter can request a voter photo identification card and the requirements that a voter must meet prior to the issuance of a card; (ii) provide that general registrars may, but are not required to, solicit applications for voter photo identification cards outside of their general registrars' offices; (iii) provide guidance for the issuance of a temporary identification document and for replacement cards; and (iv) contain a provision stating that a person's inclusion in the Department of Motor Vehicles database does not exclude such person from receiving a voter photo

identification card; and (v) designate applications for voter photo identification cards as registration records unavailable for public inspection but retained by the general registrars for a period of time.

Article 1

General Provisions

1VAC20-40-10. Definitions.

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

"Abode" or "place of abode" means a physical place where a person dwells. One may have multiple places of abode, such as a second home.

"Address" or "residence address" for purposes of voter registration and address confirmation means the address of residence in the precinct required for voter registration. An alternative mailing address may be included on a voter registration application when: (i) the residence address of the applicant cannot receive mail; or (ii) the voter is otherwise eligible by law to provide an alternative mailing address. Alternative mailing addresses must be sufficient to enable the delivery of mail by the United States Postal Service. The post office box for published lists may be provided either by the United States Postal Service or a commercial mail receiving agency (CMRA) described in the United States Postal Service Domestic Mail Manual.

"Domicile" means a person's primary home, the place where a person dwells and which he considers to be the center of his domestic, social, and civil life. Domicile is primarily a matter of intention, supported by an individual's factual circumstances. Once a person has established domicile, establishing a new domicile requires that he intentionally abandon his old domicile. For any applicant, the registrar shall presume that domicile is at the address of residence given by the person on the application. The registrar shall not solicit evidence to rebut this presumption if the application appears to be legitimate, except as provided in 1VAC20-40-40 B and C.

"Residence," "residency," or "resident" for all purposes of qualification to register and vote means and requires both domicile and a place of abode.

"Voter photo identification card" means the official voter registration card containing the voter's photograph and signature referenced in § 24.2-404 A 3 of the Code of Virginia.

1VAC20-40-90. Voter photo identification cards.

A. Pursuant to the requirements of § 24.2-404 of the Code of Virginia, a voter who does not have an acceptable form of identification listed in § 24.2-643 of the Code of Virginia may obtain a voter photo identification card free of charge through any general registrar's office if:

1. The voter completes and signs a voter identification card application form;
2. The voter's information is correct in the voter registration system;
3. A photograph of the voter is taken by the general registrar or the registrar's designated staff; and
4. The voter's signature is captured by the general registrar or the registrar's designated staff.

B. Any voter applying for the voter photo identification card whose record in the voter registration system is materially inaccurate or incomplete will be issued a card after the information has been corrected and updated within the system. Such voter may be provided with a temporary identification document if the voter's application for the voter photo identification card is made after the deadline for registering to vote in the next most proximate election in which the voter is eligible to vote. The temporary identification document shall be considered an acceptable form of identification and is valid for 30 days after its issuance.

C. A person who is unregistered may apply for a voter photo identification card, and will be provided with the card upon approval of the submitted application for voter registration. A person who is unregistered may not be provided with a temporary identification document.

D. General registrars may solicit applicants for voter photo identification cards at locations other than their offices. No general registrar shall be required to offer this service.

E. A voter's inclusion in the Department of Motor Vehicle's database will not exclude such person from being eligible to receive a voter photo identification card so long as the person affirms he is not in possession of the identification document.

F. A voter may request a replacement voter photo identification card if (i) the original card is damaged, lost, or stolen; (ii) the voter's appearance has changed substantially; or (iii) eight years have elapsed since the issuance date upon the card.

G. Applications for voter photo identification cards shall be (i) considered "registration records," as defined in § 24.2-101 of the Code of Virginia; (ii) unavailable for public inspection as provided in § 24.2-444 C of the Code of Virginia; and (iii) retained by the registrar as provided by subdivision 8 of § 24.2-114 and the applicable Library of Virginia retention schedule for local election records.

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 the 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 (1VAC20-40)

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

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

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

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

[Voter Photo Identification Card Application \(undated\)](#)

VA.R. Doc. No. R14-4012; Filed April 2, 2014, 11:17 a.m.

◆ ————— ◆

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from Article 2 of 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.

Title of Regulation: **4VAC20-280. Pertaining to Speckled Trout and Red Drum (amending 4VAC20-280-30, 4VAC20-280-40, 4VAC20-280-50; adding 4VAC20-280-55).**

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

Effective Date: April 1, 2014.

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) lower the commercial maximum size limit for red drum from 26 inches to 25 inches and increase the commercial possession limit from three fish to five fish; (ii) close the recreational speckled trout fishing season

Regulations

from March 1, 2014, through July 31, 2014; (iii) establish a year-round recreational speckled trout possession limit of five fish per person per day, with only one speckled trout allowed to be 24 inches or greater; (iv) establish mandatory weekly reporting by commercial buyers of speckled trout; and (v) establish a bycatch limit for commercial harvesters of speckled trout when 80% of the commercial landing limit of 51,104 pounds is projected to have been taken.

4VAC20-280-30. Size limits.

A. It shall be unlawful for any person to take, catch, or possess any speckled trout less than 14 inches in length, provided however, the catch of speckled trout by pound net or haul seine may consist of up to 5.0%, by weight, of speckled trout less than 14 inches in length.

B. It shall be unlawful for any person fishing ~~with hook and line, rod and reel, or hand line~~ commercially with commercial hook and line gear, or fishing recreationally with any gear type to possess more than one speckled trout 24 inches or greater ~~in any one day from December~~ January 1 through March ~~December 31 of any year,~~ except as described in 4VAC20-280-40 B.

C. It shall be unlawful for any person fishing recreationally with any gear type to take, catch, or possess any red drum less than 18 inches in length or greater than 26 inches in length.

D. It shall be unlawful for any person fishing commercially with any gear type to take, catch, or possess any red drum less than 18 inches in length or greater than 25 inches in length.

~~D.~~ E. Length is measured in a straight line from tip of nose to tip of tail.

4VAC20-280-40. Possession limits.

A. It shall be unlawful for any person fishing ~~with hook and line, rod and reel, or hand line~~ commercially with commercial hook and line gear or recreationally with any gear type to possess more than ~~40~~ five speckled trout ~~in any one day from April~~ January 1 through November 30 in any year ~~December 31,~~ except as described in subsection B of this section.

B. It shall be unlawful for any person fishing ~~with hook and line, rod and reel, or hand line~~ to possess more than five speckled trout from December 1 through March 31 in any year commercially with commercial hook and line gear or recreationally with any gear type to take, harvest, or possess any speckled trout from March 1 through July 31, 2014.

C. It shall be unlawful for any person fishing recreationally with any gear type to possess more than three red drum.

D. It shall be unlawful for any person fishing commercially with any gear type to possess more than five red drum.

4VAC20-280-50. Commercial landings quota and daily bycatch limit.

A. For each 12-month period of September 1 through August 31, the commercial landings of speckled trout shall be limited to 51,104 pounds.

B. When it is projected and announced that 80% of the commercial landings quota has been taken, it shall be unlawful for any commercial fisherman registration licensee to take, harvest, land, or possess a daily bycatch limit of up to 100 pounds of speckled trout, and that daily bycatch landing limit of speckled trout shall consist of at least an equal amount of other fish species.

~~B.~~ C. When it is projected that the commercial landings quota will be met by a certain date within the above period, the Marine Resources Commission will provide notice of the closing date for commercial harvest and landing of speckled trout during that period; and it shall be unlawful for any person to harvest or land speckled trout for commercial purposes after such closing date for the remainder of that period.

4VAC20-280-55. Seafood buyer reporting requirements.

On each Monday, from August 1 through November 30, of an open commercial season for speckled trout, any licensed seafood buyer who purchased speckled trout during the previous seven days shall contact the commission's interactive voice recording system and report any purchases of speckled trout, in pounds, during the previous seven days.

VA.R. Doc. No. R14-3999; Filed March 31, 2014, 3:26 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from Article 2 of 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.

Title of Regulation: **4VAC20-510. Pertaining to Amberjack and Cobia (amending 4VAC20-510-20, 4VAC20-510-33).**

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

Effective Date: April 1, 2014.

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 establish a daily possession limit for cobia for any vessel operated by at least one legal commercial hook-and-line licensee of no more than six cobia, regardless of crew size.

4VAC20-510-20. Possession limits.

A. It shall be unlawful for any person fishing recreationally to possess more than two amberjack or more than one cobia at any time. Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by one for cobia or two for amberjack. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

B. It shall be unlawful for any person fishing commercially to possess more than two amberjack or more than two cobia at any time, except as described in 4VAC20-510-33. Any amberjack or cobia caught after the possession limit has been reached shall be returned to the water immediately. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by two. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

4VAC20-510-33. Exceptions to possession limits and minimum size limits.

A. Nothing in 4VAC20-510-20 shall limit the possession of amberjack or cobia by licensed seafood buyers or wholesale and retail seafood establishments when operating in their capacity as buyer, wholesaler or retailer.

B. Nothing in 4VAC20-510-20 and 4VAC20-510-30 shall limit the possession of cobia by an aquaculture facility that is permitted in accordance with the provisions of 4VAC20-510-40.

C. Any person employed by a permitted cobia aquaculture facility for the purpose of harvesting cobia as broodstock for the aquaculture facility shall be exempt from the provisions of 4VAC20-510-20 and 4VAC20-510-30 provided that person possesses a scientific collection permit issued by the commissioner.

D. The daily possession limit for cobia for any vessel operated by at least one legal commercial hook-and-line licensee shall be no more than six cobia, regardless of the number of crew on that vessel.

VA.R. Doc. No. R14-4002; Filed March 31, 2014, 3:32 p.m.

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from Article 2 of 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.

Title of Regulation: 4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-40).

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

Effective Date: March 31, 2014.

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 modify the start date and the extent of the landing period within the spring segment of the commercial offshore summer flounder fishery by establishing a consecutive 20-day landing period, beginning on the second Wednesday of March, for any legally licensed Summer Flounder Endorsement Licensee who lands in Virginia summer flounder that is harvested outside of Virginia waters.

4VAC20-620-40. Commercial vessel possession and landing limitations.

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From the ~~first Monday~~ second Wednesday in March through the day preceding the second Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive ~~15-day~~ 20-day period, with the first ~~15-day~~ 20-day period beginning on the ~~first Monday~~ second Wednesday in March.
3. Land in Virginia more than 12,500 pounds of Summer Flounder during each consecutive ~~15-day~~ 20-day period, with the first ~~15-day~~ 20-day period beginning on the ~~first Monday~~ second Wednesday in March.

Regulations

4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the second Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.

2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.

3. Land in Virginia more than a total of 10,000 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.

4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4VAC20-620-30 F.

E. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

F. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection I of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection I of this section.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that

person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 9 p.m. to 7 a.m.

I. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

J. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30 A has been taken.

VA.R. Doc. No. R14-4000; Filed March 31, 2014, 11:23 a.m.

Emergency Regulation

Title of Regulation: 4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-40).

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective dates: April 1, 2014, through April 30, 2014.

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.

Preamble:

The amendments establish a landing limit of 5,000 pounds for any person harvesting Summer Flounder outside of Virginia waters beginning April 1, 2014, and move the commercial season start date to April 1, 2014.

4VAC20-620-40. Commercial vessel possession and landing limitations.

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From ~~the second Wednesday in March~~ April 1, 2014, through the day preceding the second Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 20-day period, with the first 20-day period beginning ~~on the second Wednesday in March~~ April 1, 2014.
3. Land in Virginia more than ~~12,500~~ 5,000 pounds of Summer Flounder during each consecutive 20-day period, with the first 20-day period beginning ~~on the second Wednesday in March~~ April 1, 2014.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the second Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer

Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of the combined total of the Virginia landing limit described in subdivision 3 of this subsection and the amount of the legal North Carolina landing limit or trip limit.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
3. Land in Virginia more than a total of 10,000 pounds of Summer Flounder during each consecutive 15-day period, with the first 15-day period beginning on the second Monday in November.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4VAC20-620-30 F.

E. Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

F. Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection I of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection I of this section.

G. If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from

Regulations

approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

H. It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 9 p.m. to 7 a.m.

I. Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

J. After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30 A has been taken.

VA.R. Doc. No. R14-4013; Filed March 31, 2014, 4:37 p.m.

Final Regulation

| |
|--|
| <p>REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from Article 2 of 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.</p> |
|--|

Title of Regulation: 4VAC20-900. **Pertaining to Horseshoe Crab (amending 4VAC20-900-25).**

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

Effective Date: April 1, 2014.

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 define possession limits by time of day, beginning at 12 noon of the current day and ending at 12 noon of the following day.

4VAC20-900-25. Commercial fisheries management measures.

A. It shall be unlawful for any individual to harvest horseshoe crabs from any shore or tidal waters of Virginia within 1,000 feet in any direction of the mean low water line from May 1 through June 7. The harvests of horseshoe crabs for biomedical use shall not be subject to this limitation.

B. From January 1 through June 7 of each year, it shall be unlawful for any individual to land, in Virginia, any horseshoe crab harvested from federal waters.

C. Harvests for biomedical purposes shall require a special permit issued by the Commissioner of Marine Resources, and all crabs taken pursuant to such permit shall be returned to the same waters from which they were collected.

D. The commercial quota of horseshoe crab for 2014 shall be 172,828 horseshoe crabs. Additional quantities of horseshoe crab may be transferred to Virginia by other jurisdictions, in accordance with the provisions of Addendum I to the Atlantic States Marine Fisheries Commission Fishery Management Plan for Horseshoe Crab, April 2000, provided that the combined total of the commercial quota and transfer from other jurisdictions shall not exceed 355,000 horseshoe crabs. It shall be unlawful for any individual to harvest from Virginia waters, or to land in Virginia, any horseshoe crab for commercial purposes after any calendar-year commercial quota of horseshoe crab has been attained and announced as such.

1. The horseshoe crab commercial trawl gear quota is equal to 12.488% of the commercial quota of horseshoe crabs described in this subsection or 21,583 horseshoe crabs.

2. The horseshoe crab commercial dredge gear quota is equal to 40.348% of the commercial quota of horseshoe crabs described in this subsection or 69,733 horseshoe crabs.

3. The horseshoe crab commercial hand harvest quota is equal to 22.095% of the commercial quota of horseshoe crabs described in this subsection or 38,186 horseshoe crabs.

4. The horseshoe crab commercial pound net quota is equal to 18.142% of the commercial quota of horseshoe crabs described in this subsection or 31,354 horseshoe crabs.

5. The horseshoe crab commercial general category quota is equal to 6.927% of the commercial quota of horseshoe

crabs described in this subsection or 11,972 horseshoe crabs.

E. It shall be unlawful for any individual to harvest or land horseshoe crabs during any calendar year from waters east of the COLREGS Line by any gear after 81,331 male horseshoe crabs have been landed and announced as such, and the following provisions shall also apply:

1. It shall be unlawful for any individual to harvest or land any female horseshoe crabs from waters east of the COLREGS Line.
2. It shall be unlawful for any individual to harvest or land any amount of horseshoe crabs from waters east of the COLREGS Line by any gear, except for trawl or dredge gear.
3. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee or Horseshoe Crab Class A Dredge Permittee to take, catch, possess, or land more than 1,250 male horseshoe crabs from waters east of the COLREGS Line when it is projected and announced that 65,065 male horseshoe crabs have been landed from waters east of the COLREGS Line.
4. It shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to take, catch, possess, or land more than 500 male horseshoe crabs from waters east of the COLREGS Line when it is projected and announced that 65,065 male horseshoe crabs have been landed from waters east of the COLREGS Line.

F. For the purposes of this regulation, no horseshoe crab shall be considered a male horseshoe crab unless it possesses at least one modified, hook-like appendage as its first pair of walking legs.

G. Limitations on the daily harvest and possession of horseshoe crabs for any vessel described below are as follows:

1. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee, as described in 4VAC20-900-21 C, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500 per day. When it is projected and announced that 80% of the horseshoe crab commercial trawl gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Trawl Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,250 per day. When it is projected and announced that 100% of the horseshoe crab commercial trawl quota is taken, it shall be unlawful for any valid Horseshoe Crab Trawl Permittee to possess or land any horseshoe crab taken by trawl gear.
2. It shall be unlawful for any valid Horseshoe Crab Class A Dredge Permittee, as described in 4VAC20-900-21 D, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 2,500 per day. When it is projected and announced that 80% of the horseshoe crab commercial dredge gear quota has been taken, it shall be

unlawful for any valid Horseshoe Crab Class A Dredge Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,250 per day. When it is projected and announced that 100% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class A Dredge Permittee to possess or land any horseshoe crab taken by dredge gear.

3. It shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee, as described in 4VAC20-900-21 D, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 1,000 per day. When it is projected and announced that 80% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per day. When it is projected and announced that 100% of the horseshoe crab commercial dredge gear quota has been taken, it shall be unlawful for any valid Horseshoe Crab Class B Dredge Permittee to possess or land any horseshoe crab taken by dredge gear.

4. It shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee, as described in 4VAC20-900-21 E, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per ~~day~~ 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 80% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per ~~day~~ 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 100% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any valid Horseshoe Crab Hand Harvest Permittee to possess or land any horseshoe crab taken by hand.

5. It shall be unlawful for any valid Horseshoe Crab Pound Net Permittee, as described in 4VAC20-900-21 F, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 500 per day. When it is projected and announced that 80% of the horseshoe crab commercial pound net quota has been taken, it shall be unlawful for any valid Horseshoe Crab Pound Net Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per day. When it is projected and announced that 100% of the horseshoe crab commercial pound net quota has been taken, it shall be unlawful for any valid Horseshoe Crab Pound Net Permittee to possess or land any horseshoe crab taken by pound net.

6. It shall be unlawful for any valid Horseshoe Crab General Category Permittee, as described in 4VAC20-900-

Regulations

21 G, to possess aboard any vessel or to land any number of horseshoe crabs in excess of 250 per day. When it is projected and announced that 80% of the horseshoe crab commercial general category quota has been taken, it shall be unlawful for any valid Horseshoe Crab General Category Permittee to possess aboard any vessel or to land any number of horseshoe crabs in excess of 125 per day. When it is projected and announced that 100% of the horseshoe crab commercial general category quota has been taken, it shall be unlawful for any valid Horseshoe Crab General Category Permittee to possess or land any horseshoe crab taken by gear other than trawl, dredge, pound net, or by hand.

7. It shall be unlawful for any two valid Horseshoe Crab Hand Harvest Permittees when fishing from the same boat or vessel to possess or land more than 1,000 horseshoe crabs per ~~day~~ 24-hour period, as described in subdivision 9 of this subsection. When it is projected and announced that 80% of the horseshoe crab commercial hand harvest quota has been taken, it shall be unlawful for any two valid Horseshoe Crab Hand Harvest Permittees fishing from the same boat or vessel to possess or land more than 500 horseshoe crabs per ~~day~~ 24-hour period, as described in subdivision 9 of this subsection.

8. It shall be unlawful for any valid Horseshoe Crab General Category Permittee to harvest horseshoe crabs by gill net, except as described in this subdivision.

a. Horseshoe crabs shall only be harvested from a gill net, daily, after sunrise and before sunset.

b. It shall be unlawful for any individual to harvest or possess horseshoe crabs taken by any gill net that has a stretched mesh measure equal to or greater than six inches, unless the twine size of that gill net is equal to or greater than 0.81 millimeters in diameter (0.031 inches), and that individual possesses his own valid commercial striped bass permit or his own black drum harvesting and selling permit, as well as a Horseshoe Crab General Category Permit.

9. It shall be unlawful for any person permitted for hand harvest of horseshoe crabs to possess or land any horseshoe crabs, except during a 24-hour period that extends from 12 noon on one day to 12 noon the following day.

H. From April 1 through June 30, in the Toms Cove Area, it shall be unlawful for any individual to place, set, or fish any gill net, except as described in this subsection.

1. From April 1 through May 31, any gill net licensed as over 600 feet and up to 1,200 feet in length shall have at least one anchored end 800 feet from the mean low water line.

2. From June 1 through June 30, it shall be unlawful to place, set, or fish any gill net after sunset or before sunrise.

I. It shall be unlawful for any valid Horseshoe Crab Trawl Permittee, Horseshoe Crab Class A Dredge Permittee, or Horseshoe Crab Class B Dredge Permittee to offload any horseshoe crabs between the hours of 10 p.m. and 7 a.m.

V.A.R. Doc. No. R14-4008; Filed March 31, 2014, 3:42 p.m.

Final Regulation

| |
|--|
| <p><u>REGISTRAR'S NOTICE:</u> The Marine Resources Commission is claiming an exemption from Article 2 of 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.</p> |
|--|

Title of Regulation: **4VAC20-950. Pertaining to Black Sea Bass (amending 4VAC20-950-47, 4VAC20-950-48).**

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

Effective Date: April 1, 2014.

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) establish the 2014 commercial black sea bass quota as 434,000 pounds and (ii) change the common name of the squid species from "Loligo" to "Loligo" squid.

4VAC20-950-47. Commercial harvest quotas.

A. The ~~2013~~ 2014 commercial black sea bass directed fishery quota is 394,000 pounds. When it has been announced that the directed fishery quota has been projected as reached and the directed fishery has been closed, it shall be unlawful for any directed commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass.

B. The ~~2013~~ 2014 commercial black sea bass bycatch fishery quota is 40,000 pounds. When it has been announced that the bycatch fishery quota has been projected as reached and the bycatch fishery has been closed, it shall be unlawful for any bycatch commercial black sea bass fishery permittee to possess aboard any vessel or land in Virginia any black sea bass. In the event the bycatch fishery quota is exceeded, the amount of the quota overage shall be deducted from the following year's bycatch fishing quota.

4VAC20-950-48. Individual fishery quotas; bycatch limit; at sea harvesters; exceptions.

A. Each person possessing a directed fishery permit shall be assigned an individual fishery quota, in pounds, for each calendar year. A person's individual fishery quota shall be equal to that person's percentage of the total landings of black sea bass in Virginia from July 1, 1997, through December 31, 2001, multiplied by the directed commercial fishery black sea bass quota for the calendar year. Any directed fishery

permittee shall be limited to landings in Virginia in the amount of his individual fishery quota, in pounds, in any calendar year and it shall be unlawful for any permittee to exceed his individual fishery quota. In addition to the penalties prescribed by law, any overages of an individual's fishery quota shall be deducted from that permittee's individual fishery quota for the following year.

B. In the determination of a person's percentage of total landings, the commission shall use the greater amount of landings from either the National Marine Fisheries Service Dealer Weigh-out Reports or National Marine Fisheries Service Vessel Trip Reports that have been reported and filed as of November 26, 2002. If a person's percentage of the total landings of black sea bass is determined by using the Vessel Trip Reports as the greater amount, then the person shall provide documentation to the Marine Resources Commission to verify the Vessel Trip Reports as accurate. This documentation may include dealer receipts of sales or other pertinent documentation, and such documentation shall be submitted to the commission by December 1, 2004. In the event the commission is not able to verify the full amount of the person's Vessel Trip Reports for the qualifying period, the commission shall use the greater amount of landings, from either the Dealer Weigh-Out Reports or the verified portion of the Vessel Trip Reports to establish that person's share of the quota.

C. It shall be unlawful for any person harvesting black sea bass to possess aboard any vessel in Virginia waters any amount of black sea bass that exceeds the combined total of any portion of the Virginia permitted landing limit, as described in subsection A of this section, and the North Carolina legal landing limit.

D. It shall be unlawful for any person permitted for the bycatch fishery to do any of the following:

1. Possess aboard a vessel or land in Virginia more than 200 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, except as provided in subdivision 2 of this subsection;
2. Possess aboard a vessel or land in Virginia more than 1,000 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, in any one day, provided that the total weight of black sea bass on board the vessel does not exceed 10%, by weight, of the total weight of summer flounder, scup, ~~Leige~~ Longfin squid, and Atlantic mackerel on board the vessel; or
3. Possess aboard a vessel or land in Virginia more than 100 pounds of black sea bass in addition to the North Carolina legal landing limit or trip limit, when it is projected and announced that 75% of the bycatch fishery quota has been taken.

E. It shall be unlawful for any person to transfer black sea bass from one vessel to another while at sea.

F. Any hardship exception quota granted by the commission prior to October 27, 2009, shall be converted to a percentage of the directed fishery quota based on the year in which that hardship exception quota was originally granted. The hardship exception quota shall not be transferred for a period of five years from the date the commission granted that hardship exception quota.

G. An individual fishery quota, as described in subsection A of this section, shall be equal to an individual's current percentage share of the directed fishery quota, as described in 4VAC20-950-47 A.

VA.R. Doc. No. R14-4014; Filed March 31, 2014, 3:11 p.m.

◆ ————— ◆

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Forms

NOTICE: Forms used in administering the following regulations have been filed by the State Water Control Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form 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.

Titles of Regulations: **9VAC25-20. Fees for Permits and Certificates.**

9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity.

9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining.

9VAC25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities.

9VAC25-210. Virginia Water Protection Permit Program Regulation.

9VAC25-610. Groundwater Withdrawal Regulations.

9VAC25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre.

9VAC25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities.

9VAC25-680. Virginia Water Protection General Permit for Linear Transportation Projects.

Regulations

9VAC25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities.

Agency Contact: Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4209, or email debra.harris@deq.virginia.gov.

FORMS (9VAC25-20)

~~Department of Environmental Quality Water Division Permit Application Fee Form Effective January 1, 2008 (rev. 5/13)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

[Biosolids Land Application Local Monitoring Expenses Reimbursement Invoice, Form 1 \(rev. 6/13\)](#)

[Biosolids Land Application Local Monitoring Expenses Multiple Owners Payment Assignment, Form 2 \(rev. 6/13\)](#)

[Biosolids Land Application Fee Reimbursement Notice of Intent to Seek Reconsideration, Form 3 \(rev. 8/07\)](#)

[Biosolids Land Application Fee Reimbursement Reconsideration Claim Form, Form 4 \(rev. 8/07\)](#)

FORMS (9VAC25-151)

~~Department of Environmental Quality Water Quality Division Permit Application Fee Form (rev. 1/08)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

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

FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division Permit Application Fee (rev. 1/08)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Local Government Ordinance Form (eff. 8/93)

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

FORMS (9VAC25-193)

~~Water Division Permit Application Fee Form (rev. 11/12)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

[Registration Statement for the General Virginia Pollutant Discharge Elimination System \(VPDES\) Permit for Concrete Products Facilities, VAG11 \(rev. 4/13\)](#)

FORMS (9VAC25-210)

~~Permit Application Fee Form (eff. 7/04)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 07/08)

Joint Permit Application for Projects in Tidewater Virginia (eff. 10/04)

Virginia Department of Transportation, Joint Permit Application, IACM Coordination Form (eff. 6/08)

Monthly Reporting of Impacts Less than One-Tenth Acre Statewide (eff. 8/07)

DEQ Application for New or Expanded Minor Surface Water Withdrawals Initiated On or After July 25, 2007

FORMS (9VAC25-610)

~~Water Division Permit Application Fee (rev. 11/12)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

[Application Instructions for Completing a Groundwater Withdrawal Permit Application \(rev. 11/13\)](#)

[Application for a Groundwater Withdrawal Permit \(rev. 9/12\)](#)

[Groundwater Withdrawal Permit - Change of Ownership Agreement Form \(rev. 11/13\)](#)

[Uncontested Termination Agreement \(rev. 11/13\)](#)

[Water Well Completion Report, Form GW2 \(eff. 7/07\)](#)

[Public Notice Authorization Form - Authorization for Public Notice Billing to Groundwater Withdrawal Permit Applicant \(rev. 11/13\)](#)

[Preapplication Meeting - Application for a Groundwater Withdrawal Permit \(rev. 9/12\)](#)

[Local and Areawide Planning Requirements \(rev. 9/12\)](#)

[Quarterly Groundwater Withdrawal Report \(rev. 11/13\)](#)

[Mitigation Plan \(rev. 11/13\)](#)

[Existing Users Groundwater Withdrawal Permit Application and Instructions \(eff. 2/14\)](#)

FORMS (9VAC25-660)

~~Department of Environmental Quality Water Division Permit Application Fee Form (eff. 7/04)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04)

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Final Regulation

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04)

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02)

Quarterly Reporting of Impacts Less than One-Tenth Acre (insert reporting period) Statewide (eff. 4/03)

FORMS (9VAC25-670)

~~Department of Environmental Quality Water Division Permit Application Fee (eff. 7/04)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 10/04)

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04)

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02)

FORMS (9VAC25-680)

~~Department of Environmental Quality Water Division Permit Application Fee (eff. 7/04)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04)

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04)

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02)

FORMS (9VAC25-690)

~~Department of Environmental Quality Water Division Permit Application Fee Form (eff. 7/04)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04)

Joint Permit Application for Projects of Tidewater, Virginia (eff. 10/04)

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02)

VA.R. Doc. No. R14-3997; Filed March 25, 2014, 4:15 p.m.



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: 10VAC5-200. Payday Lending (amending 10VAC5-200-10, 10VAC5-200-20, 10VAC5-200-35, 10VAC5-200-50, 10VAC5-200-60, 10VAC5-200-80, 10VAC5-200-110; adding 10VAC5-200-85, 10VAC5-200-113).

Statutory Authority: §§ 6.2-1815 and 12.1-13 of the Code of Virginia.

Effective Date: May 1, 2014.

Agency Contact: Susan Hancock, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9701, FAX (804) 371-9416, or email susan.hancock@scc.virginia.gov.

Summary:

The amendments to the regulations governing payday lenders define the terms "prepaid card" and "short-maturity loan," as well as prohibit licensed payday lenders (licensees) from obtaining an agreement from a borrower that gives the licensee or a third party the authority to prepare a check that is drawn on the borrower's deposit account. The amendments also (i) require licensees and former licensees to maintain their contact information with the Bureau of Financial Institutions until they have no outstanding payday loans, (ii) require licensees to dispose of records containing consumers' personal financial information in a secure manner, (iii) specify additional events that require licensees to file a written report with the bureau, (iv) update the text of the payday lending pamphlet to reflect other amendments to 10VAC5-200, (v) prescribe disclosure requirements for licensees' advertisements, (vi) identify the circumstances under which the Commissioner of Financial Institutions shall deem a licensee or former licensee to have ceased business for purposes of authorizing the database provider to administratively close any outstanding loan in the database, (vii) eliminate several obsolete provisions relating to the payday lending database, (viii) clarify that certain payday lending data is not confidential and may be furnished by the database provider to the public, (ix) clarify that a licensee is

Regulations

permitted to print a replacement security check for a borrower at such time that the borrower makes a payment on an extended payment plan or an extended term loan, and (x) add "print media proofs" to the advertising retention requirements. Various technical and other clarifying amendments are also included.

AT RICHMOND, MARCH 25, 2014

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2013-00070

Ex Parte: In re: Payday Lending

ORDER ADOPTING REGULATIONS

On September 3, 2013, the State Corporation Commission ("Commission") entered an Order to Take Notice of a proposal by the Bureau of Financial Institutions ("Bureau") to amend the Commission's regulations governing licensed payday lenders, which are set forth in Chapter 200 of Title 10 of the Virginia Administrative Code, 10 VAC 5-200-10 et seq. The Order to Take Notice and proposed regulations were published in the Virginia Register of Regulations on September 23, 2013, posted on the Commission's website, and sent to all licensed payday lenders and other interested parties. Licensees and other interested parties were afforded the opportunity to file written comments or request a hearing on or before October 25, 2013.

Comments on the proposed regulations were filed by Carla Stone Witzel, Esquire, of Gordon Feinblatt, LLC; Meade Spotts, Esquire, of Spotts Fain PC; and David B. Irvin, Senior Assistant Attorney General, of the Office of the Attorney General. The Commission did not receive any requests for a hearing.

Ms. Witzel indicated in her comments that the proposed addition of "debit card" to the definition of "good funds instrument" in 10 VAC 5-200-10 and to the payday lending pamphlet text in 10 VAC 5-200-80 conflicts with the prohibition against electronically debiting a borrower's deposit account or otherwise obtaining any funds from a borrower by electronic means. Accordingly, Ms. Witzel recommended that the Commission add an exception for debit cards to 10 VAC 5-200-20 H.¹

Also, in 10 VAC 5-200-20 H, Mr. Spotts suggested that licensees should be permitted to print a check on behalf of a borrower, at the borrower's request, at such time as the borrower makes a partial payment, or a payment on an extended payment plan or an extended term loan. These checks would be drawn on the borrower's deposit account and would replace the original security check, so that the security check held by the licensee would reflect the borrower's reduced loan balance.

Mr. Irvin recommended deleting the words "following the expiration of any applicable record retention periods" from 10 VAC 5-200-20 P and adding a sentence which provides that a licensee or former licensee must abide by the record

retention requirements set forth in § 6.2-1809 of the Code of Virginia. In 10 VAC 5-200-85 B, Mr. Irvin proposed adding a requirement that any mailing sent by a licensee to a consumer contain the name and address of the payday lender as set forth in the license issued by the Commission in the space for a return address on the outside of the envelope. Mr. Irvin also proposed adding "print media proofs" to 10 VAC 5-200-85 E.

The Bureau considered the comments filed and responded to them in its Statements of Position, which the Bureau filed with the Clerk of the Commission on February 12, 2014. Based on its responses, the Bureau stated that it is amenable to (1) adding language in 10 VAC 5-200-20 H that clarifies that a licensee is permitted to print a replacement security check for a borrower at such time that the borrower makes a payment on an extended payment plan or an extended term loan; (2) deleting the words "following the expiration of any applicable record retention periods" from the first sentence of 10 VAC 5-200-20 P; and (3) adding "print media proofs" to 10 VAC 5-200-85 E. Apart from also adding language to the text of the payday lending pamphlet in 10 VAC 5-200-80 to reflect the changes made to 10 VAC 5-200-20 H, the Bureau otherwise recommended that the Commission adopt the proposed regulations as proposed.

NOW THE COMMISSION, having considered the proposed regulations, the comments filed, the Bureau's Statements of Position, the record herein, and applicable law, concludes that the proposed regulations should be modified to incorporate certain suggestions that were made by commenters and the Bureau. The Commission further concludes that the proposed regulations, as modified, should be adopted with an effective date of May 1, 2014, so that licensees have a reasonable period of time in which to implement the amendments to the regulations.

Accordingly, IT IS ORDERED THAT:

- (1) The proposed regulations, as modified herein and attached hereto, are adopted effective May 1, 2014.
- (2) This Order and the attached regulations shall be posted on the Commission's website at: <http://www.scc.virginia.gov/case>.
- (3) The Commission's Division of Information Resources shall provide a copy of this Order, including a copy of the attached regulations, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.
- (4) This case is dismissed, and the papers filed herein shall be placed in the Commission's file for ended causes.

AN ATTESTED COPY hereof, together with a copy of the attached regulations, shall be sent by the Clerk of the Commission to the Commission's Office of General Counsel and the Commissioner of Financial Institutions, who shall forthwith send a copy of this Order, together with a copy of

the attached regulations, to all licensed payday lenders and such other interested parties as he may designate.

¹ We considered Ms. Witzel's comment and agree with the Bureau that adding "debit card" to the definition of "good funds instrument" in 10 VAC 5-200-10 does not conflict with the prohibition in 10 VAC 5-200-20 H. A borrower that uses a debit card to make a payment on a payday loan initiates the financial transaction, as opposed to the licensee initiating the payment and debiting the borrower's deposit account or otherwise obtaining funds from the borrower by electronic means.

10VAC5-200-10. Definitions.

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

"Act" means Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia.

"Bureau" means the Bureau of Financial Institutions.

"Business day" for purposes of clause 1 (vi) of § 6.2-1816 of the Code of Virginia and this chapter means a day on which the licensee's office is open for business as posted as required by subsection A of 10VAC5-200-70.

"Commission" means the State Corporation Commission.

"Duplicate original" for purposes of subdivision 2 of § 6.2-1816 of the Code of Virginia and this chapter means an exact copy of a signed original, an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature.

"Good funds instrument" for purposes of clause 1 (vi) of § 6.2-1816 of the Code of Virginia and this chapter means a certified check, cashier's check, money order or, if the licensee is equipped to handle such payments, payment effected by use of a credit card, prepaid card, or debit card.

"Liquid assets" for purposes of the Act and this chapter means cash on hand and in depository institutions, money market funds, commercial paper, and treasury bills.

"Member of the military services of the United States" for purposes of the Act and this chapter means a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

"Other dependent of a member of the military services of the United States" for purposes of the Act and this chapter means (i) an individual under the age of 18 whose mother or father is a member of the military services of the United States or (ii) an individual for whom a member of the military services of the United States provided more than one-half of the individual's financial support for 180 days immediately preceding the date the individual applied for a payday loan.

"Prepaid card" for purposes of the Act and this chapter means a card with a network logo (e.g., Visa, MasterCard, American Express, or Discover) that is used by a cardholder

to access money that has been loaded onto the card in advance.

"Short-maturity loan," as used in the definition of "payday loan" in § 6.2-1800 of the Code of Virginia, means a loan with a term not exceeding 120 days.

"Small," as used in the definition of "payday loan" in § 6.2-1800 of the Code of Virginia, means \$2,500 or less.

B. Other terms used in this chapter shall have the meaning set forth in § 6.2-1800.

10VAC5-200-20. Requirements for licensees; operating rules; acquisitions.

A. A licensee shall maintain unencumbered liquid assets per place of business in Virginia of at least \$25,000 at all times. ~~The bureau may require submission of proof of maintenance of such liquid assets at any time~~ minimum liquid assets required to be maintained pursuant to this subsection shall be separate and apart from, and in addition to, any minimum liquid assets that the licensee is required to maintain in connection with any other business conducted in the same office.

B. Any person submitting an application to acquire, directly or indirectly, 25% or more of the voting shares of a corporation or 25% or more of the ownership of any other person licensed to conduct business under the Act shall pay a nonrefundable application fee of \$500.

C. Each original license shall be prominently posted in each place of business of the licensee. In order for a licensee to receive a replacement or reissued license, a licensee shall pay a fee of \$50 per place of business to the commission. Licenses will only be replaced or reissued if the licensee is in compliance with all laws and regulations applicable to the conduct of the licensee's business.

D. If a person has filed a bond with the bureau, as required by § 6.2-1804 of the Code of Virginia, such bond shall be retained by the bureau notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or
2. The person ceases engaging in business as a payday lender.

E. Upon becoming licensed, a licensee shall give written notice to the bureau of its commencement of business within 10 days thereafter.

F. For purposes of clause 1 (v) of § 6.2-1816 of the Code of Virginia, the number of days in a borrower's pay cycle and the corresponding minimum loan term shall be determined by a licensee in accordance with the following:

1. If a borrower is paid on a weekly or more frequent basis, there are seven days in the borrower's pay cycle and the minimum loan term shall be 14 days.

Regulations

2. If a borrower is paid on a biweekly basis, there are 14 days in the borrower's pay cycle and the minimum loan term shall be 28 days.

3. If a borrower is paid on a semimonthly basis, there are 15 days in the borrower's pay cycle and the minimum loan term shall be 31 days.

4. If a borrower is paid on a monthly basis, there are 30 days in the borrower's pay cycle and the minimum loan term shall be 62 days.

5. If a borrower is paid either (i) less frequently than monthly, or (ii) on an irregular basis (but less frequently than weekly), there are 30 days in the borrower's pay cycle and minimum loan term shall be 62 days.

G. A licensee shall retain supporting documentation for a borrower's pay cycle in each loan file, which may consist of (i) a copy of a borrower's pay stub or similar periodic earnings statement that clearly reflects the borrower's pay cycle, or (ii) a representation by the borrower in the written loan application.

H. A licensee shall not (i) electronically debit a borrower's deposit account or otherwise obtain any funds from a borrower by electronic means, including the use of the Automated Clearing House network, electronic funds transfers, electronic check conversions, or re-presented check entries; or (ii) obtain any agreement from a borrower that gives the licensee or a third party the authority to create or otherwise prepare a check that is drawn upon the borrower's account at a depository institution. [However, this subsection shall not be construed to prohibit a licensee from printing a replacement security check on behalf of a borrower, at the borrower's request, at such time that the borrower is present in the licensed office and makes a payment on an extended payment plan or an extended term loan. A replacement security check shall be (i) dated as of the date the loan or final installment is due, (ii) issued for the remaining amount owed to the licensee, (iii) manually signed by the borrower, and (iv) exchanged for the check that was previously held as security.]

I. With the exception of the check given by a borrower to a licensee as security for a payday loan, a licensee shall not collect or receive from a borrower any interest or fees permitted by § 6.2-1817 of the Code of Virginia, either in whole or in part, prior to the date of loan maturity unless the borrower is voluntarily making a full or partial prepayment pursuant to 10VAC5-200-40. If a borrower enters into an extended payment plan or extended term loan, a licensee shall not collect or receive any interest or fees, either in whole or in part, prior to the due date of a scheduled installment unless the borrower is voluntarily making a payment in advance.

J. The amount of the check given by a borrower to a licensee as security for a payday loan shall not exceed the sum of the principal amount advanced to the borrower and the interest and fees permitted by § 6.2-1817 of the Code of Virginia. If a borrower enters into an extended payment plan at the time a

loan is obtained, the amount of the check shall not include any interest.

K. Upon satisfaction of a loan or upon learning that a loan has been satisfied, a licensee shall attach to each loan agreement either (i) a copy of the signed and dated receipt for the payment that satisfied the loan or (ii) if a judgment was obtained and satisfied, a copy of the judgment marked satisfied.

L. Except as otherwise provided in subdivision B 2 of 10VAC5-200-33 or subdivision D 1 of 10VAC5-200-35, the check used to secure a payday loan shall be dated as of the date the loan is due. A licensee shall not deposit or otherwise present for payment a check given as security for a loan, including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan, prior to the date stated on the face of the check. A licensee shall not require or accept multiple checks or any additional or alternative security in connection with a payday loan.

M. If a borrower (i) cancels a loan in accordance with subsection G of 10VAC5-200-40, or (ii) repays a loan in full with cash or [a] good funds instrument and not with the check securing the loan, the licensee shall immediately return the check given as security for the loan to the borrower.

N. A licensee or former licensee shall provide the following information to the bureau within 10 days after such person's license is surrendered or revoked or the licensed business is otherwise closed: (i) the names, addresses, telephone numbers, fax numbers, and email addresses of a designated contact person, the person responsible for updating information in the payday lending database, and the person who consumers may contact to make payment arrangements for outstanding payday loans; (ii) the location of the licensee's or former licensee's payday loan records; and (iii) any additional information that the bureau may reasonably require. A licensee or former licensee shall maintain current information with the bureau until the licensee or former licensee has no outstanding payday loans.

O. A person shall remain subject to the provisions of the Act and this chapter applicable to licensees in connection with all payday loans that the person made while licensed as a payday lender notwithstanding the occurrence of any of the following events:

1. The person's license is surrendered, suspended, or revoked; or

2. The person ceases making payday loans.

P. If a licensee or former licensee disposes of records containing a consumer's personal financial information, [following the expiration of any applicable record retention periods] such records shall be shredded, incinerated, or otherwise disposed of in a secure manner. A licensee or former licensee may arrange for service from a business record destruction vendor.

Q. Within 15 days following the occurrence of any of the following events, a licensee shall file a written report with the Commissioner of Financial Institutions describing the event and its expected impact, if any, on the activities of the licensee in Virginia:

1. Bankruptcy, reorganization, or receivership proceedings are filed by or against the licensee.
2. The Attorney General or any other Virginia governmental authority institutes an action against the licensee under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia).
3. Any local, state, or federal governmental authority institutes revocation, suspension, or other formal administrative, regulatory, or enforcement proceedings against the licensee.
4. Any local, state, or federal governmental authority (i) revokes or suspends the licensee's payday lender license, deferred presentment license, or similar license; (ii) takes formal administrative, regulatory, or enforcement action against the licensee relating to its payday lending, deferred presentment, or similar business; or (iii) takes any other action against the licensee relating to its payday lending, deferred presentment, or similar business where the total amount of restitution or other payment from the licensee exceeds \$20,000. A licensee shall not be required to provide the Commissioner of Financial Institutions with information about such event to the extent that such disclosure is prohibited by the laws of another state.
5. Based on allegations by any local, state, or federal governmental authority that the licensee violated any law or regulation applicable to the conduct of its licensed payday lending, deferred presentment, or similar business, the licensee enters into, or otherwise agrees to the entry of, a settlement or consent order, decree, or agreement with or by such governmental authority.
6. The licensee surrenders its license to engage in payday lending, deferred presentment, or similar business in another state in lieu of threatened or pending license revocation, license suspension, or other administrative, regulatory, or enforcement action.
7. The licensee is denied a license to engage in payday lending, deferred presentment, or similar business in another state.
8. The licensee or any of its members, partners, directors, officers, principals, or employees is indicted or convicted of a felony.

R. Pursuant to subsection B of § 6.2-1801 of the Code of Virginia, a licensee shall not make a payday loan that has been arranged or brokered by another person. This provision shall not be construed to prohibit a licensee from originating payday loans through its own employees.

S. A licensee shall comply with all federal laws and regulations applicable to the conduct of its business,

including but not limited to the Truth in Lending Act (15 USC § 1601 et seq.), Regulation Z (12 CFR Part 1026), the Equal Credit Opportunity Act (15 USC § 1691 et seq.), Regulation B (12 CFR Part 1002), and the Standards for Safeguarding Customer Information (16 CFR Part 314).

T. A licensee shall not obtain or receive a personal identification number (PIN) for a credit card, prepaid card, debit card, or any other type of card in connection with a payday loan transaction.

U. A licensee shall not provide any information to a borrower or prospective borrower that is false, misleading, or deceptive.

V. A licensee shall not engage in any activity that directly or indirectly results in an evasion of the provisions of the Act or this chapter.

10VAC5-200-35. Five payday loans within 180 days.

A. A borrower obtaining a fifth payday loan within any rolling 180-day period may elect, at the option of the borrower, (i) to repay the loan through an extended payment plan, unless the borrower previously elected an extended payment plan within the preceding 12 months, or (ii) to obtain the loan in the form of an extended term loan.

B. If a borrower does not obtain an extended payment plan or extended term loan in connection with his fifth payday loan in 180 days, the borrower shall not be eligible for another payday loan until 45 days after the date the fifth payday loan is paid or otherwise satisfied in full.

C. If a borrower previously obtained an extended payment plan within the preceding 12-month period, the borrower shall not be eligible to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment plan. However, if an eligible borrower elects to repay a fifth payday loan obtained in any rolling 180-day period by means of an extended payment plan, the provisions of 10VAC5-200-33 shall apply. A borrower who elects to repay such loan by means of an extended payment plan shall not be eligible for another payday loan until 90 days after the borrower has repaid or satisfied in full the balance of the loan.

D. The following provisions shall apply to extended term loans.

1. An extended term loan is a payday loan, as this term is defined in § 6.2-1800 of the Code of Virginia. As with other payday loans, an extended term loan shall be secured by a check that does not exceed the sum of the principal amount advanced to the borrower and the interest and fees permitted by § 6.2-1817 of the Code of Virginia. The check used to secure an extended term loan shall be dated as of the date the final installment is due. A licensee shall not require or accept multiple checks or any additional or alternative security in connection with an extended term loan. A borrower shall have the option of exchanging security checks with a licensee at the time the borrower makes a payment on an extended term loan. If a borrower

Regulations

wishes to exchange security checks, a licensee shall upon receipt of the payment return the check held as security to the borrower and the borrower shall deliver to the licensee a replacement security check, dated as of the date the final installment is due, for the remaining amount owed to the licensee.

2. If an eligible borrower elects an extended term loan, a licensee shall permit the borrower to repay the amount owed in four equal installments over a term of 60 days. The dollar amount of each installment shall be the same and the installment due dates shall be spread out evenly over the term of the extended term loan (i.e., an installment shall be due every 15 days).

3. The terms of an extended term loan shall be set forth in a written agreement signed and dated by the borrower. An eligible borrower may elect the extended term loan option only on the date a payday loan is made.

4. A borrower who obtains an extended term loan shall not be eligible for another payday loan during the longer of 90 days following the date the extended term loan is paid or otherwise satisfied in full, or 150 days following the date the extended term loan is obtained. Subject to one of the applicable waiting periods associated with a fifth loan in any rolling 180-day period, a borrower may be eligible for consecutive extended term loans or multiple extended term loans in any rolling 12-month period.

5. A licensee shall immediately give a borrower receipts, signed and dated by the licensee, for all payments made in connection with an extended term loan. The receipts shall also state the loan balance due after each payment.

6. A licensee shall retain the written and signed extended term loan agreement and provide the borrower with a duplicate original. A licensee shall also retain copies of receipts provided in accordance with subdivision 5 of this subsection. Upon full repayment or satisfaction of an extended term loan, a licensee shall mark the original extended term loan agreement with the word "paid" or "canceled," return it to the borrower, and retain a copy in its loan records.

E. A licensee shall provide notice to borrowers of the potential availability of the extended term loan option in accordance with the provisions of this subsection.

1. A licensee shall conspicuously post in each licensed location a written notice in at least 24-point bold type informing borrowers that they may be eligible to obtain an extended term loan. The minimum size for such written notice shall be 24 inches by 18 inches.

2. The title of the written notice, which shall appear in at least 48-point bold type, shall be "NOTICE – EXTENDED TERM LOANS AVAILABLE TO BORROWERS OBTAINING A FIFTH PAYDAY LOAN WITHIN 180 DAYS."

3. The required text of the written notice shall be as follows:

~~The Payday Loan Act Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia~~ gives borrowers obtaining their fifth payday loan within 180 days the option to receive it in the form of an extended term loan. An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you want an extended term loan, you must choose this option on the date you obtain the payday loan. When you make a payment on an extended term loan, you will have the option of providing a replacement security check for the remaining amount you owe. Please be advised that if you obtain an extended term loan, you will not be permitted to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer). However, even if you do not choose an installment payment arrangement, you will still be unable to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.

4. If the payday lending database referred to in 10VAC5-200-110 advises a licensee that an applicant is eligible for an extended term loan, the licensee shall immediately provide oral notice to the applicant that (i) the applicant is eligible to obtain an extended term loan; (ii) information about extended term loans may be found on the poster in the licensee's office or in the "Borrower Rights and Responsibilities" pamphlet; and (iii) the licensee is available to answer any questions that the applicant may have about extended term loans. When providing this notice, the licensee shall also direct the applicant to the specific locations of both the poster referred to in subdivision 1 of this subsection and the section of the pamphlet entitled "Five Payday Loans within 180 days." In addition, if the payday lending database advises a licensee that an applicant is eligible for an extended payment plan, the licensee shall also comply with subdivision C 4 of 10VAC5-200-33.

~~F. Payday loans made prior to January 1, 2009, shall not be considered for purposes of determining how many loans a borrower obtained in any rolling 180-day period.~~

10VAC5-200-50. Responding to requests from the Bureau of Financial Institutions; providing false, misleading, or deceptive information.

A. When the bureau requests a written response, books, records, documentation, or other information from a licensee in connection with the bureau's investigation, enforcement, or examination of compliance with applicable laws, the licensee shall deliver a written response as well as any requested

books, records, documentation, or information within the time period specified in the bureau's request. If no time period is specified, a written response as well as any requested books, records, documentation, or information shall be delivered by the licensee to the bureau not later than 30 days from the date of such request. In determining the specified time period for responding to the bureau and when considering a request for an extension of time to respond, the bureau shall take into consideration the volume and complexity of the requested written response, books, records, documentation, or information, and such other factors as the bureau determines to be relevant under the circumstances.

B. A licensee shall not provide any false, misleading, or deceptive information to the bureau.

C. Requests made by the bureau pursuant to subsection A are deemed to be in furtherance of the bureau's investigation and examination authority provided for in § 6.2-1813 of the Code of Virginia. Failure to comply with subsection A or any violation of subsection B may result in ~~fines~~ civil penalties, license suspension, or license revocation.

10VAC5-200-60. Posting of charges.

A. A licensee shall conspicuously post in its licensed location a schedule of payments, fees and interest charges, with examples using (i) a \$300 loan payable in 14 days; (ii) a \$300 loan payable in 30 days; (iii) a \$300 loan payable in 31 days; (iv) a \$300 loan payable in 62 days; ~~(v) a \$300 loan payable through an extended payment plan that is elected on the date the loan is obtained;~~ (vi) a \$300 loan payable through an extended payment plan that is elected on the 15th day of a 31 day term; and ~~(vii)~~ (v) a \$300 extended term loan. A licensee may post additional examples when posting the information required by this subsection.

B. A licensee shall display its fees and interest charges not only as a dollar amount, but also as an Annual Percentage Rate, which shall be stated using this term, calculated in accordance with ~~Federal Reserve Board~~ Regulation Z (12 CFR ~~226.1 et seq.~~ Part 1026).

10VAC5-200-80. Payday lending pamphlet text.

The required text of the payday lending pamphlet referred to in 10VAC5-200-30 is as follows:

PAYDAY LENDING IN THE COMMONWEALTH OF VIRGINIA

BORROWER RIGHTS AND RESPONSIBILITIES

Please take the time to carefully review the information contained in this pamphlet. It is designed to advise you of your rights and responsibilities in connection with obtaining a payday loan in Virginia under ~~the Payday Loan Act, § 6.1-444 et seq.~~ Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia. If you have any questions about payday lending or want additional information, you may contact the Virginia State Corporation Commission's Bureau of Financial Institutions toll-free at (800) 552-7945 or on the Internet at <http://www.scc.virginia.gov/bfi>. The Bureau of Financial

Institutions has available a "Consumer Guide to Payday Lending" that may be viewed at this website or obtained by calling the toll-free telephone number listed above.

In General: You are responsible for evaluating whether a payday loan is right for you. Alternatives may include among other things less expensive short-term financing from another financial institution, family, or friends, a cash advance on a credit card, an account with overdraft protection, or a loan repayable over several months.

Advertisements: A lender is prohibited from sending you an envelope or other written material that gives the false impression that it is an official communication from a governmental entity, unless it is required by the United States Postal Service.

Notice from Lender: The lender is required to provide you with a clear and conspicuous printed notice advising you that a payday loan is not intended to meet long-term financial needs and that you should use a payday loan only to meet occasional or unusual short-term cash needs.

Information from Lender: Virginia law prohibits the lender from providing you with any false, misleading, or deceptive information.

Payday Lending Database: Before making a payday loan to you, a lender is required by Virginia law to access a database that contains detailed information about payday loans made to Virginia residents by all lenders licensed to do business in Virginia. The database will inform the lender whether you are eligible for a payday loan. The Bureau of Financial Institutions is unable to advise you of your eligibility for a payday loan. If you are ineligible for a payday loan, the lender will provide you with the toll-free telephone number of the database provider, which you can use to find out the specific reason for your ineligibility. To enable the lender to check the database, you will be required to provide the lender with a written loan application and your original driver's license or identification card issued by a state driver's licensing authority (e.g., Department of Motor Vehicles for the Commonwealth of Virginia). If you wish to obtain a payday loan but do not have a driver's license or identification card, you will need to obtain a driver's license or identification card from the driver's licensing authority in your home state.

Prohibition on Loans to Individuals with Certain Previous or Outstanding Loans: Virginia law prohibits a lender from making a payday loan to you if (i) you currently have an outstanding payday loan; (ii) you paid or satisfied in full a previous payday loan on the same day that you are applying for a new payday loan; (iii) in the past 90 days you paid or satisfied in full a previous payday loan by means of an extended payment plan; (iv) in the past 45 days you paid or satisfied in full a fifth payday loan that you obtained within a period of 180 days; (v) in the past 90 days you paid or satisfied in full an extended term loan; or (vi) in the past 150 days you entered into an extended term loan.

Regulations

It is important to note that the previous or outstanding payday loans referred to above include loans made by the same lender as well as any other lender conducting payday lending business in Virginia.

Prohibition on Loans to Members of the Military and their Spouses and Dependents: Virginia law prohibits lenders from making payday loans to members of the military services of the United States as well as their spouses and dependents. If you are a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer, the lender is prohibited from making a payday loan to you. The lender is also prohibited from making a loan to you if (i) you are married to such a member, (ii) you are less than 18 years old and the son or daughter of such a member, or (iii) more than one-half of your financial support for the past 180 days was provided by such a member.

Limitations on Security Interest / Prohibition on Obtaining Funds Electronically / Obtaining PINs: The lender cannot require you to provide more than one check as security for any payday loan. The check must be dated as of the date your loan is due. The lender cannot require you to provide any security for your payday loan other than a check payable to the lender. The lender is also prohibited from electronically debiting your deposit account or obtaining any of your funds by electronic means. The lender also cannot obtain any agreement from you that gives the lender or a third party the authority to prepare a check that is drawn upon your deposit account. Additionally, the lender is prohibited from obtaining or receiving a personal identification number (PIN) for a credit card, prepaid card, debit card, or any other type of card in connection with your loan.

One Loan at a Time / \$500 Maximum: The lender cannot have more than one loan outstanding to you at any one time. If you currently have an outstanding payday loan from any lender, you cannot obtain another payday loan. The maximum loan amount is \$500.

Minimum Loan Term: Under Virginia law, your loan term must be at least twice as long as your pay cycle. For example, if you are paid on a weekly basis, your minimum loan term would be 14 days.

Fees, Charges, and Interest: The lender is permitted to charge you (i) interest at a simple annual rate of 36%, (ii) a loan fee not exceeding 20% of the amount of money advanced to you (i.e., \$20 per \$100 advanced), and (iii) a verification fee not exceeding \$5.00. For example, if the lender advances you \$300 for 31 days, the lender may charge you up to \$9.30 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$74.30. If the lender advances you \$300 for 62 days, the lender may charge you up to \$18.60 interest, a loan fee of \$60, and a verification fee of \$5.00 for a total of \$83.60. Other than the specific fees and costs discussed in the section of this pamphlet entitled "Failure to

Repay" (see below), no additional amounts may be directly or indirectly charged, contracted for, collected, received, or recovered by the lender.

You will receive your loan proceeds in the form of either cash or a check from the lender. The lender cannot charge you a fee for cashing their check. Similarly, a check casher affiliated with the lender cannot charge you a fee for cashing the lender's check.

Written Agreement: The lender must provide you with a written loan agreement, which must be signed by both you and an authorized representative of the lender. The loan agreement is a binding, legal document that requires you to repay the loan. Make sure you read the entire loan agreement carefully before signing and dating it. The lender must provide you with a duplicate original of the loan agreement at the time of your loan transaction. If any provision of your loan agreement violates ~~the Payday Loan Act (§ 6.1-444 et seq. Chapter 18 (§ 6.2-1800 et seq.)~~ of Title 6.2 of the Code of ~~Virginia~~ Virginia, the provision will not be enforceable against you.

Extended Payment Plans: Under Virginia law eligible borrowers have the option of repaying a payday loan by means of an extended payment plan. You may only obtain an extended payment plan once in any rolling 12-month period (even if you obtain loans from different lenders or locations). You may obtain an extended payment plan at any time on or after the date that you received your loan through the date that your loan is due to be repaid.

Under an extended payment plan, you are permitted to repay the amount you owe in at least four equal installments spread out evenly over a term of at least 60 days. You will not be charged any additional interest or fees in connection with an extended payment plan, and interest will not accrue during the term of an extended payment plan.

If you obtain an extended payment plan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended payment plan.

Five Payday Loans within 180 Days: If you are obtaining a fifth payday loan within a rolling 180-day period, you have the option to (i) repay the fifth loan through an extended payment plan, unless you previously obtained an extended payment plan within the preceding 12 months, or (ii) obtain the loan in the form of an extended term loan.

You do not have to choose either one of these options. However, even if you do not obtain an extended payment plan or extended term loan, you will not be able to obtain another payday loan from any lender for a period of 45 days after you fully repay or satisfy your fifth payday loan.

Extended payment plans are discussed above. If you are eligible to repay your fifth payday loan by means of an extended payment plan and choose to do so, you will not be able to obtain another payday loan from any lender for a

period of 90 days after you fully repay or satisfy the extended payment plan.

An extended term loan is a payday loan under which you are permitted to repay the amount you owe in four equal installments spread out evenly over a term of 60 days. You may obtain an extended term loan even if you previously obtained another extended term loan or an extended payment plan. If you want an extended term loan, you must choose this option on the date you obtain the payday loan. If you obtain an extended term loan, you will not be able to get another payday loan from any lender for a period of 90 days after you fully repay or satisfy the extended term loan or 150 days after you obtain the extended term loan (whichever is longer).

Other Businesses: A lender is prohibited by statute from engaging in other businesses, besides check cashing, unless permitted by order of the State Corporation Commission. A lender is also prohibited by statute from selling you any type of insurance coverage.

Loans for Other Products & Services: You are prohibited from using any of the money from your payday loan to purchase any other product or service sold at the lender's business location.

Right to Cancel: You have the right to cancel your loan at any time prior to the close of business on the next day the lender is open following the date your loan is made by paying the lender the amount advanced to you in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by using a credit card, prepaid card, or debit card.

Partial Payments and Prepayments: You have the right to make partial payments (in increments of not less than \$5.00) on your payday loan at any time prior to its specified due date without penalty. If you make a partial payment, the total interest and loan fee you pay will be reduced (unless you have an extended payment plan or extended term loan -- see "Payments on Extended Payment Plans and Extended Term Loans" below). You have the right to receive signed, dated receipts for each payment made along with a statement of the balance remaining on your payday loan. You also have the right to prepay your loan in full before its specified due date without penalty by paying the lender in cash, certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by use of a credit card, prepaid card, or debit card, the amount of money advanced to you as well as any accrued and unpaid interest and fees.

Payments on Extended Payment Plans and Extended Term Loans: You have the right to prepay an extended payment plan or extended term loan without penalty. However, unless it results in the prepayment in full of an extended payment plan or extended term loan, a partial payment, excess payment, installment payment, or other payment you give to the lender in advance of the date the funds are due does not result in either a change to your payment schedule or a pro-rata adjustment of the total

interest, if any, or loan fee that you will be required to pay. Payments you make on an extended payment plan or extended term loan are first applied to any past due installment and then to your next regularly scheduled installment. The lender must give you receipts, signed and dated by the lender, for all payments you make on an extended payment plan or extended term loan. When you make a payment on an extended payment plan or extended term loan, you have the option to give the lender a replacement security check for the remaining amount you owe. [At your request, the lender may print a replacement security check on your behalf when you are in the lender's office and make a payment on an extended payment plan or extended term loan.]

Lender to Return Original Loan Agreement: Upon repayment of your loan in full, the lender must mark your original loan agreement with the word "paid" or "canceled" and return it to you. If you obtained an extended payment plan, the lender is also required to mark your original extended payment plan document with the word "paid" or "canceled" and return it to you.

Lender to Return Security Check: If you cancel your loan (see "Right to Cancel" above) or repay it in full with cash or by certified check, cashier's check, money order or, if the lender is equipped to handle such payments, by using a credit card, prepaid card, or debit card, the lender must immediately return the check you gave as security for the loan.

No Rollovers, Extensions, Etc.: The lender cannot refinance, renew, extend, or rollover your payday loan.

Failure to Repay: Pay back your loan! Know when your payment is due and be sure to repay your loan on time and in full. You are responsible for having sufficient funds in your checking account on the due date of your loan so that your check does not bounce if the lender deposits it in his account. If you do not repay your loan by the specified due date, the lender may begin accruing interest on the principal amount of your loan at a maximum rate of 6.0% per year.

In collecting or attempting to collect a payday loan, the lender is required to comply with the restrictions and prohibitions applicable to debt collectors contained in the Fair Debt Collection Practices Act, 15 USC § 1692 et seq., regarding harassment or abuse, false or misleading misrepresentations, and unfair practices in collections. The lender is also prohibited from threatening or beginning criminal proceedings against you if a check you provide to the lender bounces. If a lender knowingly violates this prohibition, the lender is required to pay you a civil monetary penalty equal to three times the amount of the dishonored check.

If you cannot or do not repay the loan: (i) the lender is permitted to recover from you any fee charged to the lender (maximum of \$25) as a result of your check being returned due to your account being closed by you or containing insufficient funds, or if you stopped payment on your check;

Regulations

and (ii) if the lender seeks and obtains judgment against you as a result of your returned check, the lender may obtain court costs and reasonable attorney's fees (total may not exceed \$250) if such costs and fees are awarded by the court.

The lender cannot file or initiate a legal proceeding against you until 60 days after the date that you default on a payday loan, including a default under an extended payment plan or extended term loan. During this 60-day period the lender may voluntarily enter into a repayment arrangement with you.

Legal Action Against Lender: You have the right to bring a civil action against the lender if you suffer a loss as a result of the lender violating any provision of ~~the Payday Loan Act Chapter 18~~ (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia. If you are successful in your civil action, you have the right to be reimbursed for reasonable attorney's fees, expert witness fees, and court costs you have incurred in connection with your civil action. Losses suffered as the result of the lender's violation of ~~the Payday Loan Act Chapter 18~~ of Title 6.2 of the Code of Virginia may also be pursued under the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia), which in some cases permits consumers to recover actual and punitive damages.

Complaints and Contacting the Bureau of Financial Institutions: For assistance with any complaints you may have against a payday lender, please contact the Bureau of Financial Institutions toll free at (800) 552-7945 or on the Internet at <http://www.scc.virginia.gov/bfi>. Complaints must be filed in writing with the Bureau of Financial Institutions and include copies of supporting documentation. Complaints should be mailed to Bureau of Financial Institutions, Attn: Complaints, P.O. Box 640, Richmond, Virginia 23218-0640, or faxed to Bureau of Financial Institutions, Attn: Complaints, at (804) 371-9416.

10VAC5-200-85. Advertising.

A. A licensee shall disclose the following information in its advertisements in a conspicuous manner:

1. The name of the payday lender as set forth in the license issued by the commission.
2. A statement that the payday lender is "licensed by the Virginia State Corporation Commission."
3. The license number assigned by the commission to the payday lender (i.e., PL-XXX).

B. A licensee shall not deliver or cause to be delivered to a consumer any envelope or other written material that gives the false impression that the mailing or written material is an official communication from a governmental entity, unless required by the United States Postal Service.

C. Every advertisement used by, or published on behalf of, a licensee shall comply with the disclosure requirements for advertisements contained in Regulation Z (12 CFR Part 1026).

D. For purposes of this section, the term "conspicuous" shall have the meaning set forth in subdivision 20 of § 6.2-1816 of the Code of Virginia.

E. Every licensee shall retain for at least three years after it is last published, delivered, transmitted, or made available, an example of every advertisement used, including but not limited to solicitation letters, [print media proofs,] commercial scripts, and recordings of all radio and television broadcasts, but excluding copies of Internet web pages.

10VAC5-200-110. Payday lending database.

A. This section sets forth the rules applicable to the payday lending database referred to in § 6.2-1810 of the Code of Virginia.

B. Except as otherwise provided in this section, a licensee shall transmit all information to the database via the Internet. In order to maintain the confidentiality and security of the information, a licensee shall not transmit information to the database using publicly accessible computers, computers that are not under the licensee's control, unsecured wireless (Wi-Fi) connections, or other connections that are not secure. A licensee shall maintain generally accepted security safeguards to protect the confidentiality of the information transmitted to the database, including but not limited to installing and regularly updating malware protection (antivirus and antispyware) software and a firewall.

C. ~~Prior~~ After receiving a completed written loan application but prior to making a payday loan, a licensee shall transmit the following information to the database for purposes of determining whether an applicant is eligible for a payday loan. The licensee shall obtain the applicant information required by this subsection in accordance with the provisions of subsection D of this section.

1. Name of licensee and license number.
2. Office location of licensee.
3. First and last name or identification number of employee entering information into the database.
4. Applicant's first and last name.
5. Last four digits of applicant's driver's license number or identification card number.
6. Applicant's address.
7. Applicant's date of birth.
8. Type of card (e.g., driver's license or identification card issued by a state driver's licensing authority) provided by the applicant pursuant to subdivision D 1 of this section.

D. 1. A licensee shall obtain the information required by subdivisions C 4, 5, 6, ~~and 7,~~ and 8 of this section directly from the applicant's unexpired original driver's license or identification card issued by a state driver's licensing authority (e.g., Department of Motor Vehicles for the Commonwealth of Virginia), regardless of whether the information on the driver's license or identification card is still accurate. A licensee shall not accept photocopies,

facsimiles, or other reproductions of a driver's license or identification card.

2. A licensee shall photocopy the applicant's driver's license or identification card, partially redact the driver's license number or identification card number so that only the last four digits of the number remain visible, and retain the redacted photocopy in its records.

3. A licensee shall not accept a driver's license or identification card from an applicant when there is reason to believe that (i) it belongs to an individual other than the applicant or (ii) it is fake, counterfeit, or has been altered, fraudulently obtained, forged, or is otherwise nongenuine or illegitimate.

E. If the database advises a licensee that an applicant is ineligible for a payday loan, then the licensee shall inform the applicant of his ineligibility, instruct the applicant to contact the database provider for information about the specific reason for his ineligibility, and provide the applicant with the toll-free telephone number of the database provider.

F. If the database advises a licensee that an applicant is eligible for a payday loan, then the licensee shall transmit the following additional information to the database prior to making a payday loan:

1. Application date.
2. Loan number.
3. Date of loan.
4. Principal amount of loan.
5. Interest rate.
6. Dollar amount of interest to be charged until date of loan maturity.
7. Dollar amount of loan fee to be charged.
8. Dollar amount of verification fee to be charged.
9. Dollar amount of total finance charges.
10. Annual Percentage Rate (APR) of loan.
11. Number of days in applicant's pay cycle.
12. Number of days in loan term.
13. Date loan is due.
14. Dollar amount of check given by applicant to secure the loan (i.e., at the time the loan is made).

G. If the database advises a licensee that an applicant is eligible for an extended payment plan or extended term loan and the applicant subsequently elects an extended payment plan or extended term loan, then the licensee shall transmit the following additional applicable information to the database no later than the time the licensee closes for business on the date the applicant enters into the extended payment plan or extended term loan:

1. Date the extended payment plan or extended term loan is entered into.

2. Principal amount owed under the extended payment plan or extended term loan.

3. Number of installment payments and the amount of each payment to be made under the extended payment plan or extended term loan.

4. Date each installment payment is due under the extended payment plan or extended term loan.

5. Number of days in term of extended payment plan or extended term loan.

H. For purposes of this section, a licensee closes for business when it officially shuts its doors to the general public on a business day, or within one hour thereafter.

I. A licensee shall generate a separate printout from the database showing the results of each loan eligibility query, including whether an applicant is eligible for an extended payment plan or extended term loan, and retain the printout in its loan records.

J. Except as otherwise provided in subdivisions 3, 7, and 8 of this subsection, a licensee shall transmit the following additional information, as applicable, to the database no later than the time the licensee closes for business on the date of the event:

1. If a borrower cancels a payday loan, the date of the cancellation.
2. If a payday loan (including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan) is repaid or otherwise satisfied in full, (i) the date of repayment or satisfaction, and (ii) the total net dollar amount ultimately paid by the borrower in connection with the loan (i.e., principal amount of loan plus all fees and charges received or collected pursuant to §§ 6.2-1817 and 6.2-1818 of the Code of Virginia, less any amount refunded to the borrower as a result of overpayment).
3. If a check used to repay a loan in full is returned unpaid, the date the check is returned unpaid and the dollar amount of the check. A licensee shall transmit such information to the database no later than five calendar days after the date the check is returned unpaid.
4. If a licensee collects a returned check fee from a borrower, the dollar amount of the returned check fee.
5. If a licensee initiates a legal proceeding against a borrower for nonpayment of a payday loan, the date the proceeding is initiated and the total dollar amount sought to be recovered.
6. If a licensee obtains a judgment against a borrower, the date and total dollar amount of the judgment.
7. If a judgment obtained by a licensee against a borrower is satisfied, the date of satisfaction. A licensee shall transmit such information to the database on the date the licensee learns that the judgment has been satisfied.

Regulations

8. If a licensee collects any court costs or attorney's fees from a borrower, the dollar amount of the court costs or attorney's fees. A licensee shall transmit such information to the database on the date the licensee learns that the court costs or attorney's fees have been paid.

9. If a licensee charges off a payday loan as uncollectible, the date the loan is charged off and the total dollar amount charged off.

K. 1. If any information required to be transmitted by a licensee to the database is automatically populated or calculated by the database provider, the licensee shall verify the information and immediately correct any inaccuracies or other errors.

2. If a licensee becomes aware of any changes, inaccuracies, or other errors in the information previously verified or transmitted by the licensee to the database, the licensee shall immediately update or correct the database.

L. The following provisions address a licensee's inability to access the database via the Internet at the time of loan application:

1. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall to the extent possible use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section and obtaining applicant eligibility information from the database.

2. If a licensee makes a payday loan based on applicant eligibility information obtained from the database provider's alternative means of database access, then the licensee shall transmit to the database any remaining information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee via the Internet.

3. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control and the database provider's alternative means of database access is unavailable or otherwise unable to provide the licensee with applicant eligibility information (including eligibility for an extended payment plan or extended term loan), then the licensee may make a payday loan to an applicant if the applicant signs and dates a separate document containing all of the representations and responses to the questions set forth below and the prospective loan otherwise complies with the provisions of the Act and this chapter. The document shall be printed in a type size of not less than 14 point and contain a statement that the representations and questions relate to loans obtained from either the licensee or another payday lender.

The licensee shall retain the original document in its loan file and provide the applicant with a duplicate original.

a. The representations to be made by an applicant are as follows:

(1) I do not currently have any outstanding payday loans.

(2) I did not repay or otherwise satisfy in full a payday loan today.

(3) In the past 90 days I did not repay or otherwise satisfy in full a payday loan by means of an extended payment plan.

(4) In the past 45 days I did not repay or otherwise satisfy in full a fifth payday loan that was obtained within a period of 180 days.

(5) In the past 90 days I did not repay or otherwise satisfy in full an extended term loan.

(6) I did not obtain an extended term loan within the past 150 days.

(7) I am not a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(8) I am not married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(9) I am not under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(10) One-half or less (including none) of my financial support for the past 180 days was provided by a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

b. The questions to be presented to an applicant are as follows:

(1) In the past 12 months, have you obtained an extended payment plan in order to repay a payday loan? If the applicant's response is "no" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision C 4 of 10VAC5-200-33.

(2) Have you obtained four or more payday loans within the past 180 days? If the applicant's response is "yes" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision E 4 of 10VAC5-200-35.

c. If a licensee makes a payday loan pursuant to subdivision 1 of this section subsection, then the licensee shall transmit to the database the information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee, via either the Internet or the database provider's alternative means of database access.

4. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall document in its records the technical problems it experienced and the date and time that it sought to access the database.

M. The following provisions address a licensee's inability to access the database via the Internet subsequent to making a loan:

1. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall to the extent possible use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section to the database. If the database provider's alternative means of database access is unavailable or otherwise unable to accept the information, then the licensee shall transmit to the database the information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee, via either the Internet or the database provider's alternative means of database access.

2. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall document in its records the technical problems it experienced and the date and time that it sought to transmit the information to the database.

~~N. By the close of business on each business day, a licensee shall transmit to the database the total daily number (even if 0) of individuals who were unable to obtain payday loans from the licensee because they are members of the military services of the United States or the spouses or other dependents of members of the military services of the United States. If the licensee is unable to access the database due to technical problems beyond the licensee's control, then the licensee shall transmit to the database the information required by this subsection no later than the time the licensee closes for business on the next business day that the licensee is able to access the database. The licensee shall also document in its records the technical problems it experienced~~

~~and the date and time that it sought to transmit the information to the database.~~

~~O. N.~~ A licensee shall have limited access to the information contained in the database. The database shall only provide a licensee with the following information: (i) whether an applicant is eligible for a new payday loan; (ii) if an applicant is ineligible for a new payday loan, the general reason for the ineligibility (e.g., the database may state that the applicant has an outstanding payday loan but it shall not furnish any details regarding the outstanding loan); and (iii) if an applicant is eligible for a new payday loan, whether the applicant is also eligible for an extended payment plan or extended term loan. The database shall also permit a licensee to access information that the licensee is required to transmit to the database provided that such access is for the sole purpose of verifying, updating, or correcting the information. Except as otherwise provided in this subsection or 10VAC5-200-113, a licensee shall be prohibited from accessing or otherwise obtaining any information contained in or derived from the database.

~~P. Q.~~ If the Commissioner of Financial Institutions determines that a licensee or former licensee has ceased business but still has one or more outstanding payday loans that cannot be repaid due to the licensee's or former licensee's closure, the Commissioner of Financial Institutions may authorize the database provider to ~~mark~~ administratively close the outstanding loans ~~as satisfied~~ in the database in order to enable the affected borrowers to obtain payday loans in the future. A licensee or former licensee shall be deemed by the Commissioner of Financial Institutions to have ceased business if it (i) fails to respond to the bureau after two written requests mailed to the address on file with the bureau or (ii) fails to maintain its contact information in accordance with subsection N of 10VAC5-200-20.

~~Q. P. 1. Except as provided in subsection F of 10VAC5-200-35, payday~~ Payday loans made on or after October 1, 2008, and prior to January 1, 2009, that ~~remain~~ remained outstanding on January 1, 2009, shall be considered for purposes of determining a borrower's eligibility for a payday loan. ~~Accordingly, on or before January 1, 2009, a licensee shall transmit the following information to the database in connection with every payday loan made on or after October 1, 2008, that will or may be outstanding as of January 1, 2009:~~

- ~~a. Name of licensee and license number.~~
- ~~b. Office location of licensee.~~
- ~~e. First and last name or identification number of employee entering information into the database.~~
- ~~d. Borrower's first and last name.~~
- ~~e. Last four digits of borrower's driver's license number or identification card number.~~
- ~~f. Borrower's address.~~
- ~~g. Borrower's date of birth.~~

Regulations

~~h. Date loan funds were disbursed.~~

~~i. Date loan is due.~~

~~2. A licensee shall obtain and retain the borrower information required by this subsection in accordance with the provisions of subsection D of this section.~~

~~3. 2. For every payday loan made on or after October 1, 2008, that ~~remains~~ remained outstanding as of January 1, 2009, a licensee shall (i) transmit to the database all applicable information required by subsection J of this section within the time prescribed therein ~~or January 1, 2009, whichever is later~~ and (ii) retain the photocopies specified in subdivision D 2 of this section in accordance with § 6.2-1809 of the Code of Virginia.~~

10VAC5-200-113. Limited disclosure of data from payday lending database.

A. Pursuant to § 6.2-1810 of the Code of Virginia, the information contained in the payday lending database is confidential. However, provided that it does not directly or indirectly identify or pertain to any specific borrowers, licensees, or loan transactions, aggregate data and data that is otherwise derived from information contained in the database is not confidential and may be furnished by the database provider to the public. The database provider may charge and collect a fee to defray the cost of compiling and furnishing such data.

B. The database provider shall notify the bureau prior to furnishing data pursuant to this section.

VA.R. Doc. No. R14-3844; Filed March 27, 2014, 4:43 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 10 (2014)

In Furtherance of the Virginia Indian Commemorative Commission

Importance of the Commission

Native Americans have lived in the land now known as Virginia for thousands of years, their history having been and continuing to be documented. The historical record confirms that Virginia Indians provided aid and comfort to the British colonists in 1607 and were instrumental in the establishment of the first permanent English-speaking settlement in North America at Jamestown.

The legacy of the indigenous peoples of the Commonwealth has been recorded in the names of many Virginia locations and landmarks, such as the cities of Chesapeake and Roanoke, the Counties of Accomack, Appomattox, and Powhatan, and the Chickahominy, Mattaponi, Pamunkey, Potomac, and Rappahannock Rivers, as well as many other sites. Despite hardships brought about by the loss of lands, languages, and civil rights, American Indians in Virginia have persisted and continue to contribute to the Commonwealth through agriculture, land stewardship, teaching, military and civil service, the arts, and other avenues of productive citizenship.

Continuation of the Virginia Indian Commemorative Commission

In recognition that the courage, persistence, determination, and cultural values of Virginia's Indians have significantly enhanced and contributed to society, the General Assembly approved House Joint Resolution 680 (2009), requesting the creation of a commission to recommend an appropriate monument in Capitol Square to commemorate the life, achievements, and legacy of American Indians in the Commonwealth. On October 22, 2009, Governor Tim Kaine issued Executive Order 100 that established the Virginia Indian Commemorative Commission. Since then, the Commission has met regularly and developed a plan for execution of the monument, but there is more work to be done. Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.2-134 and 2.2-135 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to direct such matters, I hereby issue this Executive Order to continue the work of the Virginia Indian Commemorative Commission.

Composition of the Commission

The current Virginia Indian Commemorative Commission shall consist of the Governor, the Lieutenant Governor, the Speaker of the House of Delegates, three members of the House of Delegates appointed by the Speaker of the House of Delegates in accordance with the principles of proportional

representation contained in the Rules of the House of Delegates, the Clerk of the House of Delegates, the Chairman of the Senate Committee on Rules, two members of the Senate appointed by the Senate Committee on Rules, the Clerk of the Senate, the Executive Director of the Capitol Square Preservation Council, three nonlegislative citizen members who shall be representatives of Virginia Indians to be appointed by the Governor, and the Executive Director of the Virginia Capitol Foundation who shall serve ex officio with nonvoting privileges. Additional members may be appointed at the Governor's discretion. The Chairman and the Vice Chairman shall be appointed by the Governor.

Members of the Commission shall serve without compensation, but they may receive reimbursement for authorized expenses incurred in the discharge of their official duties.

Charge for the Commission

The Commission shall take all necessary actions to proceed to contract with an identified artist, implement the selected design and coordinate the construction, pursuant to applicable state construction policies, of an appropriate monument on Capitol Square to commemorate the life, achievements, and legacy of American Indians in the Commonwealth. The Commission shall continue to seek private funding for the operation and support of the Commission and the erection of an appropriate monument. However, the costs of implementation of the Commission, its work, and the reimbursement of members, estimated to be \$5,000, shall be borne by the Commission from such private funds as it may acquire to cover the costs of its operation and work. The Commission may establish an organization with 501(c)(3) status for fundraising purposes. The Commission is vested with all the powers to carry out the intent of the General Assembly under House Joint Resolution 680 (2009). All agencies of the Commonwealth shall provide assistance to the Commission, upon request. An estimated 200 hours of staff time will be required to support the work of the Commission.

The Commission shall report annually the status of its work, including any findings and recommendations, to the General Assembly, by December 1st each year.

Effective Date of the Executive Order

This Executive Order replaces Executive Order 59 (2013) issued on February 5, 2013, by Governor Robert F. McDonnell. This Executive Order shall become effective upon its signing, and shall remain in effect for one year from its signing, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 25th day of March, 2014.

/s/ Terence R. McAuliffe
Governor

Governor

EXECUTIVE ORDER NUMBER 11 (2014)

Continuing the Commission on Military Installations and Defense Activities

Importance of the Commission

The Commonwealth of Virginia is proud of its well-documented, distinguished history and unparalleled record of exceptional support for our military services, service members and their families, and the businesses that support our national security. The bond between the Commonwealth and our military services is and will continue to be strong, mutually beneficial, and inextricably linked. While the military recruits soldiers, sailors, airmen, and marines, it retains families. Virginia is and will remain the preeminent state for military installations and defense activities – and for military personnel, their families, and veterans.

Moreover, Virginia affords a multitude of extraordinary strategic advantages that are widely recognized, such as its designation as the best state for business, economic vibrancy, top-ranked institutions of higher education and medicine, renowned centers of innovative research and development, a diverse and highly educated workforce, international trade and investment, an expansive port, and a solid transportation infrastructure. Centrally located in the mid-Atlantic region, with close proximity to our nation's capital and possessing an extraordinary combination of training sites and ranges with immediate access to unrestricted air-space and maritime operating areas, Virginia also offers high quality and high intensity training areas uniquely capable of preparing both conventional and special operations forces to safeguard our vital interests anywhere in the world. The Commonwealth is resolute in its dedication to ensuring the highest level of steadfast commitment to our military installations, defense activities, and surrounding communities.

In recent years, national security and defense spending have begun a decline. However, Virginia's military and government civilian personnel, defense contractors and suppliers, supporting businesses and local communities are working together and moving forward in this new fiscal climate. The Commonwealth must vigilantly and proactively work to retain and strengthen military and federal facilities as well as continue to seek new opportunities for collaborative partnerships, innovative initiatives, and economic development and diversification for related operations and facilities that can be located in Virginia.

Continuing the Commission on Military Installations and Defense Activities

On March 1, 2013, the Commission on Military Installations and Defense Activities was established by executive order. The Commission was tasked to identify, review, and recommend actions that the Commonwealth could take in support of our military and defense installations and activities, military services, and surrounding localities. There

is more work to be done by the Commission, and there are additional installations and activities requiring visitation by the Commission and retained experts.

Accordingly, by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to §§ 2.2-134 and 2.2-135 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Commission on Military Installations and Defense Activities.

Composition of the Commission

The continued Commission will consist of the Secretaries of Veterans and Defense Affairs, Finance, Commerce and Trade, Technology, and Transportation, the co-chairs of the General Assembly Military and Veteran Caucus, and four (4) citizen members whose background shall include service as a General or Flag Officer in one of the military services, to be appointed by the Governor and serve at his pleasure. The Governor shall designate a Chairman from among the appointed members. The Governor may appoint additional persons to the Commission at his discretion.

Responsibilities of the Commission

The Commission's responsibilities shall include the following:

1. Continue the process of assessing the Commonwealth's military and defense installations and activities and make recommendations for near- and long-term actions that the Commonwealth can take to improve the support for our nation's military services;
2. Obtain data, information, and studies from subject matter experts in order to develop recommendations and plans for improving relationships with federal military and defense installations and activities located in the Commonwealth;
3. Develop and recommend strategies to improve the local support for federal military and defense installations and activities located in Virginia;
4. Develop and recommend strategies designed to identify the economic impact of federal military and defense installations and activities on the localities hosting or surrounding these installations and activities, as well as on the Commonwealth as a whole;
5. Develop and recommend strategies that support and foster collaboration among local and regional entities in identifying appropriate opportunities for the protection of existing federal facilities and the placement of additional federal facilities in the Commonwealth;
6. Determine and recommend the best and most efficient manner to promote business, technology, transportation, education, economic development, and other efforts to

support, attract, and retain existing military installations, commands and defense activities in the Commonwealth;

7. Identify all federal military and defense installation and facility construction plans in the Commonwealth, and facilitate ways to assist in those plans;

8. Support the Commonwealth's role in research and development related to or arising out of military missions, contracting, and defense activities;

9. Identify and recommend strategies for expanding collaborative activities related to strategic economic interests of the Commonwealth including, but not limited to, aerospace, cyber-security, modeling and simulation, energy, and unmanned systems;

10. Recommend improvements and resources for service members, military families and their children, veterans, and businesses that bring military and defense-related jobs to the Commonwealth;

11. Cultivate strategies to facilitate the transition from military service to civilian life, and identify barriers to and opportunities for credentialing, licensing and employment for military veterans throughout the Commonwealth of Virginia; and

12. Advance all other prospective opportunities, proactively fostering outreach and good will, in order for the Commonwealth of Virginia to remain the most military-friendly state in the nation.

Commission Staffing and Funding

Necessary staff support for the Commission's work during its continued existence shall be furnished by the Office of the Secretary of Veterans and Defense Affairs, and such other agencies and offices as designated by the Governor. An estimated 200 hours of staff time will be required to support the work of the Commission.

Necessary funding to support the Commission and its staff shall be provided from private contributions and state funds appropriated for the same purposes as the Commission, as authorized by § 2.2-135 of the Code of Virginia, as well as any other private sources of funding that may be identified. Estimated direct costs for this Commission are \$5,000.

Commission members shall serve without compensation and shall receive reimbursement for authorized expenses incurred in the discharge of their official duties.

The Commission shall meet upon the call of the chairman. The chairman shall meet, at least quarterly, with the Governor, or the Governor's designee, to discuss the progress of the Commission and the current impacts of federal budget actions, and shall issue such other reports and recommendations as necessary or as requested by the Governor.

Effective Date of the Executive Order

This Executive Order replaces Executive Order No. 60 (2013) issued on March 1, 2013, by Governor Robert F. McDonnell. This Executive Order shall be effective upon signing and, pursuant to §§ 2.2-134 and 2.2-135 of the Code of Virginia, shall remain in force and effect for one year from its signing unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 1st day of April, 2014.

/s/ Terence R. McAuliffe
Governor

GENERAL NOTICES/ERRATA

STATE AIR POLLUTION CONTROL BOARD Notice of Periodic and Small Business Impact Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Air Pollution Control Board is conducting a periodic review and small business impact review of 9VAC5-210, Regulation for Dispute Resolution. The review of this regulation will be guided by the principles in Executive Order 14 (2010).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins on April 21, 2014, and ends May 12, 2014.

Comments may be submitted to Debra A. Harris, Planning and Policy Specialist, Office of Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov. Alternatively, comments may be submitted online to the Virginia Regulatory Town Hall at <http://townhall.virginia.gov/L/Forums.cfm>.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Proposed State Implementation Plan Revision - Definition of Volatile Organic Compound

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act. The Commonwealth intends to submit the regulation to the EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the Act.

Regulations affected: The regulation of the board affected by this action is 9VAC5-10, General Definitions (Revision D13).

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: April 21, 2014, to May 21, 2014.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed below. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: Because the regulation amendments have been adopted by the board in accordance with the Administrative Process Act and have subsequently become effective, DEQ is accepting comment only on the issue cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: The proposed revision will consist of amendments to an existing regulation concerning the definition of volatile organic compound (VOC). On February 12, 2013 (78 FR 9823), EPA revised the definition of VOC in 40 CFR 51.100 to exclude HCF2OCF2H (HFE-134); HCF2OCF2OCF2H (HFE-236cal2); HCF2OCF2CF2OCF2H (HFE-338pcc13); and HCF2OCF2OCF2CF2OCF2H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180)) from the definition of VOC. These exclusions are accomplished by adding the substances to a list of substances not considered to be a VOC. Additionally, EPA corrected the citation for 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE-7300). The state definition has been revised accordingly.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the SIP.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All materials received are part of the public record.

To review regulation documents: The proposal and any supporting documents are available on the DEQ Air Public

Notices for Plans website at <http://www.deq.state.va.us/Programs/Air/PublicNotices/airplansandprograms.aspx>. The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, VA, telephone (804) 698-4000;
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, VA, telephone (276) 676-4800;
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, VA, telephone (540) 562-6700;
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, VA, telephone (434) 582-5120;
- 5) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800;
- 6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020;
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800; and
- 8) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email karen.sabasteanski@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load Implementation Plan for the Buffalo (North and South Forks), Cedar, and Colliers Creek Watersheds in Rockbridge County

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a total maximum daily load (TMDL) implementation plan for the Buffalo (North and South Forks), Cedar, and Colliers Creek watersheds in Rockbridge County. These creeks were first listed as impaired on the Virginia's 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for bacteria in 2002 (Cedar Creek), 2004 (Buffalo Creek, mainstem), 2006 (Colliers Creek), 2010 (South Fork Buffalo Creek), and 2012 (North Fork Buffalo Creek). The creeks have remained on the 303(d) list for these impairments since then. In addition, Colliers Creek was listed as impaired due to water quality violations of the general aquatic life (benthic) standard in 2010.

The impaired segments of the North and South Forks of the Buffalo and Colliers Creek extend from the headwaters down

to the confluence with the mainstem of Buffalo Creek, 7.28, 13.24, and 13.77 miles, respectively. The impaired segment of Buffalo Creek extends 15.51 miles downstream to its confluence with the Maury River. The impaired segment of Cedar Creek extends 11.49 miles from the headwaters to its confluence with the James River.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report. In addition, § 62.1-44.19:7 C of the Code of Virginia requires the development of an implementation plan (IP) for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts. Bacteria TMDLs were completed by DEQ for all of the creeks, and a benthic TMDL addressing sediment was completed for Colliers Creek. The TMDLs were submitted to the Environmental Protection Agency for approval on January 2, 2014. The TMDL report is available on the DEQ website at www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx.

The first public meeting on the development of this TMDL implementation plan will be held on Thursday, May 8, 2014, at 7 p.m. at the Effinger Fire Hall, 2824 Collierstown Road, Lexington, VA.

The public comment period for the first public meeting will end on June 9, 2014. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Nesha McRae, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7850, or email nesha.mcrae@deq.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on April 1, 2014. The orders may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, VA.

Director's Order Number Thirty-Three (14)

Virginia's Computer-Generated Game "Pick 3" Final Rules for Game Operation (effective March 13, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order. Upon the effective date, these rules shall supersede and replace any and all prior Virginia Lottery "Pick 3" game rules)

General Notices/Errata

Director's Order Number Forty-Two (14)

Virginia Lottery's "Epic Vegas Scratcher" Promotion Final Rules for Game Operation (effective April 8, 2014)

Director's Order Number Forty-Three (14)

Virginia's Computer-Generated Game "Pick 4" Final Rules for Game Operation (effective March 25, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order. Upon the effective date, these rules shall supersede and replace any and all prior Virginia Lottery "Pick 4" game rules)

Director's Order Number Forty-Four (14)

Virginia's Computer-Generated Game "Cash 5" Final Rules for Game Operation (effective March 25, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order. Upon the effective date, these rules shall supersede and replace any and all prior Virginia Lottery "Cash 5" game rules)

Director's Order Number Forty-Five (14)

Virginia's Computer-Generated Game "Decades of Dollars" Final Rules for Game Operation (effective March 27, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order. Upon the effective date, these rules shall supersede and replace any and all prior Virginia Lottery "Decades of Dollars" game rules)

Director's Order Number Forty-Seven (14)

Virginia's Computer-Generated Game Lottery; "Fast Play \$15,000 Money Mania" Final Rules for Game Operation (effective March 30, 2014)

Director's Order Number Forty-Eight (14)

Virginia's Computer-Generated Game Lottery; "Fast Play Bow Wow Bucks" Final Rules for Game Operation (effective March 30, 2014)

Director's Order Number Forty-Nine (14)

Virginia's Computer-Generated Game Lottery; "Fast Play Hot 'N Spicy Bingo" Final Rules for Game Operation (effective March 30, 2014)

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Periodic and Small Business Impact Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the Virginia Waste Management Board is conducting a periodic review and small business impact review of 9VAC20-15, Regulation for Dispute Resolution. The review of this regulation will be guided by the principles in Executive Order 14 (2010).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins on April 21, 2014, and ends May 12, 2014.

Comments may be submitted to Debra A. Harris, Planning and Policy Specialist, Office of Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov. Alternatively, comments may be submitted online to the Virginia Regulatory Town Hall at <http://townhall.virginia.gov/L/Forums.cfm>.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

STATE WATER CONTROL BOARD

Approval of Water Quality Management Planning Actions

Notice of action: The State Water Control Board is considering the approval of nine total maximum daily load (TMDL) reports, and granting authorization to include the TMDL reports in the appropriate water quality management plans (WQMPs).

Purpose of notice: The board is seeking comment on the proposed approvals and authorizations. The purpose of these actions is to approve nine TMDL reports as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in impaired waterbodies. These actions are taken in accordance with the Public Participation Procedures for Water Quality Management Planning.

Public comment period: April 21, 2014, through May 21, 2014.

Description of proposed action: Department of Environmental Quality (DEQ) staff intends to recommend (i) that the DEQ Director approve the TMDL reports listed below as Virginia's plans for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, and (ii) that the DEQ Director authorize inclusion of the TMDL reports in the

appropriate WQMPs. No regulatory amendments are required for these TMDLs and their associated wasteload allocations.

At the December 2, 2004, meeting, the board voted unanimously to delegate to the DEQ Director the authority to approve TMDLs that do not include wasteload allocations requiring regulatory adoption by the board, provided that a summary report of the action the director plans to take is presented to the board prior to the director approving the TMDL reports. The TMDLs included in this public notice will be approved using this delegation of authority.

The TMDLs listed below were developed in accordance with 40 CFR 130.7 and are exempt from the provisions of Article 2 (§ 2.2-4006 et seq.) of the Virginia Administrative Process Act. The TMDLs have been through the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDLs. EPA has approved the Middle Clinch River Watershed TMDL, the Maury River, Cedar Creek and Tributaries TMDL, and the Poquoson River and Back Creek TMDL, whereas the other six TMDL reports in this public notice are in the final draft stage under EPA review. The approved reports can be found at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx> and the draft reports can be found at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx>.

Affected Waterbodies and Localities:

In the James River Basin:

1. "Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River, and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek"

- 6 bacteria TMDLs, located in Augusta, Bath, and Rockbridge Counties and the Cities of Lexington and Buena Vista, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

In the York River Basin:

2. "E. coli and Enterococci TMDL Development for the Pamunkey River and Tributaries, Virginia"

- 5 bacteria TMDLs, located in Hanover, Louisa, King William, Caroline, Spotsylvania, and New Kent Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

In the Chesapeake Bay - Small Coastal - Eastern Shore Basin:

3. "Bacteria TMDL Development in Red Bank Creek and Machipongo River, Virginia"

- 3 bacteria TMDLs, located in Accomack and Northampton Counties, propose bacteria reductions for portions of the watersheds to address primary contact (swimming use) impairments.
- 2 bacteria TMDLs, located in Accomack and Northampton Counties, propose bacteria reductions for portions of the watershed to address shellfish impairments.

4. "Total Maximum Daily Loads of Bacteria for Poquoson River and Back Creek in the City of Poquoson and in York County, Virginia"

- 2 bacteria TMDLs, located in the City of Poquoson and in York County, propose bacteria reductions for portions of the watershed to address shellfish impairments.

5. "Total Maximum Daily Loads of Bacteria for Back River in York County and Cities of Hampton, Poquoson, and Newport News, Virginia"

- 1 bacteria TMDLs, located in York County and Cities of Hampton, Poquoson, and Newport News, propose bacteria reductions for portions of the watershed to address shellfish impairments.

In the Chowan River - Dismal Swamp Basin:

6. "Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocatoy River Watersheds"

- 5 bacteria TMDLs, located in the Cities of Chesapeake and Virginia Beach, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

In the Tennessee/Big Sandy River Basin:

7. "TMDL Development Middle Clinch River Watershed, Virginia"

- 6 bacteria TMDLs, located in Russell and Tazewell Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

8. "Bacteria TMDL Development Clinch River and Cove Creek Watershed, Virginia"

- 5 bacteria TMDLs, located in Russell, Scott, and Lee Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

General Notices/Errata

9. "Bacteria and Sediment TMDL Development Lower Clinch River Watershed, Virginia"

- 5 bacteria TMDLs, located in Russell, Scott, Tazewell, and Wise Counties, propose bacteria reductions for portions of the watershed to address primary contact (swimming use) impairments.

How to comment: DEQ accepts written comments by email, fax, and postal mail. All written comments must include the full name, address and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision.

To review documents: The TMDL reports are available on the DEQ website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx> for EPA approved reports; <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx> for draft reports; and by contacting the DEQ representative listed below for any report. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests, and additional information: Liz McKercher, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4291, FAX (804) 698-4032, or email elizabeth.mckercher@deq.virginia.gov.

Amendment of Water Quality Management Planning Regulation

Notice of action: The State Water Control Board is considering the amendment of the regulation on water quality management planning in accordance with the Public Participation Procedures for Water Quality Management Planning. A regulation is a general rule governing people's rights or conduct that is upheld by a state agency.

Purpose of notice: The board is seeking comments through the Department of Environmental Quality (DEQ) on the proposed amendment. The purpose of the amendment to the state's Water Quality Management Planning Regulation (9VAC25-720) is to adopt 14 total maximum daily load (TMDL) wasteload allocations.

Public comment period: April 21, 2014, through May 21, 2014.

Description of proposed action: DEQ staff will propose amendments of the state's Water Quality Management Planning Regulation for the James River Basin (9VAC25-720-60 A), Tennessee - Big Sandy River Basin (9VAC25-720-90 A), Roanoke River Basin (9VAC25-720-80 A), and

the Chowan River - Dismal Swamp Basin (9VAC25-720-100). Statutory authority for promulgating these amendments can be found in § 62.1-44.15 (10) of the Code of Virginia.

Staff intends to recommend (i) that the board approve the TMDL reports as the plan for the pollutant reductions necessary for attainment of water quality goals in the impaired segments, (ii) that the board authorize inclusion of the TMDL reports in the appropriate Water Quality Management Plan, and (iii) that the board adopt 14 TMDL wasteload allocations as part of the state's Water Quality Management Planning Regulation in accordance with §§ 2.2-4006 A 4 c and 2.2-4006 B of the Code of Virginia.

The TMDL reports were developed in accordance with 40 CFR 130.7 and are exempt from the provisions of Article 2 (§ 2.2-4006 et seq.) of the Virginia Administrative Process Act. The reports were subject to the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public appeal of the TMDL. EPA has approved the Maury River, Cedar Creek, and Tributaries TMDL, whereas the other four TMDL reports in this public notice are in the final draft stage under EPA review. The approved reports can be found at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx>, and the draft reports can be found at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx>.

Affected Waterbodies and Localities:

In the James River Basin (9VAC25-720-60):

1. "Bacteria Total Maximum Daily Load Development for Colliers Creek, North Fork Buffalo Creek, South Fork Buffalo Creek, Buffalo Creek, Maury River, and Cedar Creek and a Sediment Total Maximum Daily Load Development for Colliers Creek"

- The Maury River, Cedar Creek, and Tributaries TMDL, located in Augusta, Bath, and Rockbridge Counties and the Cities of Lexington and Buena Vista, proposes sediment reductions for the Colliers Creek watershed and provides a sediment wasteload allocation of 103.4 tons/year.

2. "Benthic Total Maximum Daily Load (TMDL) Development for the North Creek Watershed"

- The North Creek TMDL, located in Fluvanna County, proposes sediment reductions for the watershed and provides a sediment wasteload allocation of 7.29 tons/year.
- The North Creek TMDL, located in Fluvanna County, proposes phosphorus reductions for the

watershed and provides a phosphorus wasteload allocation of 187 lbs/year.

Roanoke River Basin (9VAC25-720-80 A)

3. "TMDLs for Benthic Impairments in Little Otter River (Sediment and Total Phosphorus), Johns Creek, Wells Creek, and Buffalo Creek (Sediment) Town of Bedford, Bedford and Campbell Counties, Virginia"

- The Little Otter River, Johns Creek, Wells Creek, and Buffalo Creek TMDL, located in Bedford and Campbell Counties and the Town of Bedford, proposes sediment reductions for the watershed and provides sediment wasteload allocations of 13.99 tons/year, 25.51 tons/year, 172.81 tons/year, 24.00 tons/year, 32.86 tons/year, and 1.49 tons/year.
- The Little Otter River, Johns Creek, Wells Creek and Buffalo Creek TMDL, located in Bedford and Campbell Counties and the Town of Bedford, proposes phosphorus reductions for the Lower Little Otter watershed and provides a phosphorus wasteload allocation of 2209.2 lbs/year.

Tennessee - Big Sandy River Basin (9VAC25-720-90 A)

4. "Bacteria and Sediment TMDL Development Lower Clinch River Watershed, Virginia"

- The Lower Clinch River TMDL, located in Russell, Scott, Tazewell, and Wise Counties, proposes sediment reductions for the Laurel Creek and Thompson Creek watersheds and provides sediment wasteload allocations of 0.26 tons/year and 0.22 tons/year.

Chowan River – Dismal Swamp Basin (9VAC25-720-100)

5. "Total Maximum Daily Load Development for the Back Bay, North Landing River, and Pocaty River Watersheds"

- The Back Bay, North Landing River, and Pocaty River Watersheds TMDL, located in the Cities of Chesapeake and Virginia Beach, proposes phosphorus reductions for Pocaty River and Ashville Bridge Creek watersheds and provides phosphorus wasteload allocations of 129.39 kg/year and 34.46 kg/year.

How to comment: The DEQ accepts written comments by email, fax, and postal mail. All written comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

How a decision is made: After comments have been considered, the board will make the final decision. Citizens who submit statements during the comment period may address the board members during the board meeting at which a final decision is made on the proposal.

To review documents: The TMDL reports are available on the DEQ website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx> for EPA approved reports; <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx> for draft reports; and by contacting the DEQ representative listed below for any report. The electronic copies are in PDF format and may be read online or downloaded.

Contact for public comments, document requests, and additional information: Liz McKercher, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4291, FAX (804) 698-4032, or email elizabeth.mckercher@deq.virginia.gov.

Notice of Release of Final 2014 Water Quality Assessment Guidance

The Virginia Department of Environmental Quality (DEQ) will release the Final 2014 Water Quality Assessment Guidance Manual on April 21, 2014.

Virginia's 2014 Water Quality Assessment Guidance Manual contains the assessment procedures and methods to be used for the development of Virginia's 2014 § 305(b)/§ 303(d) Integrated (i.e., combined Water Quality Assessment and Impaired Waters) Report. The assessment guidance seeks to address all key elements of the U.S. Environmental Protection Agency (EPA) 2006 Assessment Guidance and subsequent updates current to January 2014, in addition to the assessment methodology for Chesapeake Bay Water Quality Standards established by EPA, most recently updated in the May 2010 addendum to Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity, and Chlorophyll *a* for the Chesapeake Bay and Its Tidal Tributaries.

A copy of the Final 2014 Water Quality Assessment Guidance Manual will be available for download from the DEQ Water Quality Assessment webpage at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityAssessments.aspx>. A hard copy can also be requested from Tish Robertson, DEQ Water Quality Assessment Coordinator, using the contact information below.

Section 62.1-44.19:5 C of the Code of Virginia requires DEQ to develop and publish the procedures used for defining and determining impaired waters and provide for public comment on the procedures. A draft version of this guidance was released for 30-day public review and comment on January 27, 2014. Comments were received from three organizations, including the U.S. Environmental Protection Agency. DEQ's response to these comments will be available for download at the URL listed above.

General Notices/Errata

Modifications have been made to the assessment guidance since 2012. The most notable addition is a new subcategory "4D," which applies to impaired tidal waters under the Chesapeake Bay TMDL that now meet assessed dissolved oxygen criteria. Additionally, the Coastal Plain Macroinvertebrate Index has been replaced with the more refined Virginia Coastal Plain Macroinvertebrate Index. Guidance modifications are described in Part II of the manual.

Contact Information: Tish Robertson, Ph.D., Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4309, FAX (804) 698-4032, or email tish.robertson@deq.virginia.gov.

Proposed Consent Order for the City of Waynesboro

An enforcement action has been proposed for the City of Waynesboro for violations in Augusta County. A proposed amendment to order by consent describes a settlement to further address inflow and infiltration in the city's sewage collection system. A description of the proposed action is available at the Department of Environmental Quality office listed below or online at www.deq.virginia.gov. Tiffany Severs will accept comments by email at tiffany.severs@deq.virginia.gov, FAX (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 21, 2014, to May 21, 2014.

Notice of Periodic and Small Business Impact Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Water Control Board is conducting a periodic review and small business impact review of 9VAC25-15, Regulation for Dispute Resolution. The review of this regulation will be guided by the principles in Executive Order 14 (2010).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins on April 21, 2014, and ends May 12, 2014.

Comments may be submitted to Debra A. Harris, Planning and Policy Specialist, Office of Regulatory Affairs,

Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, FAX (804) 698-4019, or email debra.harris@deq.virginia.gov. Alternatively, comments may be submitted online to the Virginia Regulatory Town Hall at <http://townhall.virginia.gov/L/Forums.cfm>.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Notice of Periodic and Small Business Impact Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Water Control Board is conducting a periodic review and small business impact review of 9VAC25-780, Local and Regional Water Supply Planning. The review of this regulation will be guided by the principles in Executive Order 14 (2010).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins April 21, 2014, and ends May 12, 2014.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Sara Jordan, Senior Water Supply Planner, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7901, FAX (540) 574-7878, or email sara.jordan@deq.virginia.gov.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

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.

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/cumulatab.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.

ERRATA

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13VAC5-63. Virginia Uniform Statewide Building Code.**

Publication: 30:16 VA.R. 2071-2232 April 7, 2014

Correction to Final Regulation:

Page 2154, first column, 13VAC5-63-210 S 79 should read:

"~~56.~~ [~~47.~~ 79.] Delete Section ~~N1101.9~~ N1101.16 [~~(R401.16)~~ (R401.3)]."

VA.R. Doc. No. R12-3159; Filed April 8, 2014 1:49 p.m.

