



VIRGINIA

REGISTER OF REGULATIONS

VOL. 30 ISS. 23

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

JULY 14, 2014

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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**; **Carlos L. Hopkins**; **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>).

July 2014 through June 2015

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
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 NURSING

Initial Agency Notice

Title of Regulation: 18VAC90-30. Regulations Governing the Licensure of Nurse Practitioners.

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

Name of Petitioner: Carol Hartigan.

Nature of Petitioner's Request: To add the American Association of Critical-Care Nurses Certification Corporation to list of board-approved certification organizations for nurse practitioner licensure.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition to amend the listing of approved providers was posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov. It has also been filed with the Register of Regulations for publication on July 14, 2014. Comment on the petition from interested parties is requested until August 13, 2014. Following receipt of all comments on the petition, the request will be considered by the Board of Nursing at its meeting in October 2104 to decide whether to make any changes to the regulatory language.

Public Comment Deadline: August 13, 2014.

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

VA.R. Doc. No. R14-35; Filed June 20, 2014, 4:24 p.m.

BOARD OF COUNSELING

Initial Agency Notice

Title of Regulation: 18VAC115-20. Regulations Governing the Practice of Professional Counseling.

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

Name of Petitioner: Gerald Lawson.

Nature of Petitioner's Request: To require graduation from a clinically focused counselor preparation program accredited by CACREP or an approved affiliate of CACREP that includes a minimum of 60 semester credits (90 quarter hour credits) of curricular experiences and a practicum of at least 100 hours and an internship of at least 600 hours. Allow a grandfathering of programs that meet current requirements for seven years from the effective date of the regulations.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition will be filed with the Register of Regulations and published on July 14, 2014, with comment requested until August 13, 2014. It will also be posted on the

Virginia Regulatory Townhall and available for electronic comment. At its first meeting following the close of comment, which is scheduled for September 19, 2014, the board will consider the request to amend regulations and all comment received in support or opposition.

Public Comment Deadline: August 13, 2014.

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

VA.R. Doc. No. R14-36; Filed June 18, 2014, 3:49 p.m.

BOARD OF SOCIAL WORK

Agency Decision

Title of Regulation: 18VAC140-20. Regulations Governing the Practice of Social Work.

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

Name of Petitioner: Rodney McMurray.

Nature of Petitioner's Request: To reduce the continuing education requirement for supervisors to refresher courses of three to five hours of training in supervision every five years.

Agency's Decision: Request denied.

Statement of Reason for Decision: At its meeting held on April 25, 2014, the board considered the petition and comment received and had a robust discussion on the issue. While there was some support for a review of the regulation, the board voted to deny the petition because members did not believe the requirement is excessively burdensome but did feel that it is necessary to ensure adequate supervision of applicants. Members noted that the requirement equates to 2.8 hours of continuing education per year, all of which may be counted towards the 30 hours of continuing education required for licensure renewal every two years. Additionally, the changes suggested by commenters did not appear to be significantly different from the current requirement. The board further discussed the possible need for better communication with supervisors about the requirement and the types of courses that may be beneficial.

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

VA.R. Doc. No. R14-21; Filed June 20, 2014, 8:16 a.m.

Petitions for Rulemaking

BOARD OF SOCIAL WORK

Agency Decision

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Carol Gauzens.

Nature of Petitioner's Request: Amendment to 18VAC140-20-50, which requires at least 14 hours of continuing education within the five years preceding provision of supervision. Recommends an initial requirement and then two or three continuing education units per renewal for those wishing to be supervisors.

Agency's Decision: Request denied.

Statement of Reason for Decision: At its meeting held on April 25, 2014, the board considered the petition and comment received and had a robust discussion on the issue. While there was some support for a review of the regulation, the board voted to deny the petition because members did not believe the requirement is excessively burdensome but did feel that it is necessary to ensure adequate supervision of applicants. Members noted that the requirement equates to 2.8 hours of continuing education per year, all of which may be counted towards the 30 hours of continuing education required for licensure renewal every two years. Additionally, the changes suggested by commenters did not appear to be significantly different from the current requirement. The board further discussed the possible need for better communication with supervisors about the requirement and the types of courses that may be beneficial.

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

V.A.R. Doc. No. R14-13, Filed June 20, 2014, 8:16 a.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-115, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities**. This general permit establishes limitations and monitoring requirements for point source discharges from seafood processing facilities. The purpose of the proposed action is to amend and reissue the existing general permit that expires on July 23, 2016.

In addition, this regulation will undergo a periodic review pursuant to Executive Order 14 (2010) and a small business impact review pursuant to § 2.2-4007.1 of the Code of Virginia to determine whether this regulation should be terminated, amended, or retained in its current form.

For purposes of the periodic review, public comment is sought on any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare and is designed to achieve its intended objective in the most efficient, cost-effective manner; (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.

For purposes of the small business impact review public comment is also requested on the components of this review, which include: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

Public Comment Deadline: August 13, 2014.

Agency Contact: Elleanore Daub, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4032, TTY (804) 698-4021, or email elleanore.daub@deq.virginia.gov.

VA.R. Doc. No. R14-4092; Filed June 24, 2014, 9:50 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Counseling intends to consider amending the following regulations: **18VAC115-20, Regulations Governing the Practice of Professional Counseling; 18VAC115-50, Regulations Governing the Practice of Marriage and Family Therapy; and 18VAC115-60, Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners**. The purpose of the proposed action is to clarify and update requirements as part of a comprehensive review of current regulations governing the practice of professional counseling, marriage and family therapy, and licensed substance abuse practitioners that began in 2011. The Board of Counseling determined that it is essential to continue the regulation of these licensed professions as mandated by the Code of Virginia, but that there are modifications necessary to clarify and update requirements. Subsequently, the board amended 18VAC115-20 in response to the Governor's Regulatory Reform Initiative, but did not complete its review of 18VAC115-50 and 18VAC115-60 until recently. The board intends to amend all three chapters in this action for consistency in requirements for licensed professionals. The goal of the action is to ensure accountability and competency for residents, supervisors, and licensees who provide clinical services to individuals and families in need of counseling. 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.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Public Comment Deadline: August 13, 2014.

Agency Contact: Catherine Chappell, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4406, FAX (804) 527-4435, or email catherine.chappell@dhp.virginia.gov.

VA.R. Doc. No. R14-4067; Filed June 12, 2014, 8:24 a.m.

Notices of Intended Regulatory Action

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Social Services intends to consider amending **22VAC40-201, Permanency Services - Prevention, Foster Care, Adoption, and Independent Living**. The purpose of the proposed regulatory action is to provide an appeal process related to benefits and services for children in the Commonwealth's foster care system to help ensure that these children, their birth parents when reunification is a goal, and in some cases, foster parents, receive needed services and payments. In addition, the proposed regulatory action provides an appeal process for independent living services for youth who are in or have been in the foster care system and for individuals who are eligible for prevention services under § 63.2-905 of the Code of Virginia.

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

Statutory Authority: §§ 63.2-217, 63.2-900, and 63.2-915 of the Code of Virginia.

Public Comment Deadline: August 13, 2014.

Agency Contact: Phyl Parrish, Department of Social Services, Division of Family Services, 801 East Main Street, Richmond, VA 23219-2901, telephone (804) 726-7926, FAX (804) 726-7895, TTY (800) 828-1849, or email phyl.parrish@dss.virginia.gov.

VA.R. Doc. No. R14-3687; Filed June 25, 2014, 4:36 p.m.

Statutory Authority: § 18.2-270.2 of the Code of Virginia.

Public Comment Deadline: August 13, 2014.

Agency Contact: Richard Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

VA.R. Doc. No. R14-3946; Filed June 12, 2014, 3:46 p.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider amending **24VAC35-60, Ignition Interlock Program Regulations**. The purpose of the proposed action is to strengthen, update, and clarify these regulations that cover the process for the certification of ignition interlock devices and ignition interlock service providers in Virginia. Procedures for the installation, maintenance, and removal of ignition interlock devices are outlined as well as requirements for reporting and recordkeeping.

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

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).

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

Public Hearing Information:

August 2014 - date, time, and place to be determined

Public Comment Deadline: August 4, 2014.

Agency Contact: Susan Lee, Manager, Department of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, or email susan.lee@sbe.virginia.gov.

Summary:

The amendments change the definition of "valid" for all purposes related to voter identification, including the length of time an expired identification document will be accepted.

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.

"Authorized personnel" means the designated individuals of a general registrar's office or the Department of Elections who are permitted to access the voter registration database and capture information necessary to generate photo identification cards.

"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.

"Permanent satellite location" means an office managed, maintained, and operated under the control of the general registrar for the locality that is consistently operational throughout the year and is not the principal office of the general registrar. Offices of other agencies where registration takes place pursuant to § 24.2-412 B of the Code of Virginia are not considered permanent satellite locations.

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

"Valid" for all purposes related to voter identification means documents ~~containing the name and photograph of the voter~~ having legal effect, legally or officially acceptable or of binding force, and appearing to be genuinely issued by the agency or issuing entity appearing upon the document where the bearer of the document reasonably appears to be the person whose photograph is contained thereon. Other data contained on the document, including but not limited to expiration date, shall not be considered in determining the validity of the document. Such documents shall be accepted up to 30 days after expiration.

"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.

V.A.R. Doc. No. R14-4093; Filed June 25, 2014, 9:08 a.m.

Regulations

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Proposed Regulation

Title of Regulation: 4VAC15-20. Definitions and Miscellaneous: In General (amending 4VAC15-20-160).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Hearing Information:

August 19, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: August 8, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341 or email phil.smith@dgif.virginia.gov.

Summary:

*The proposed amendment defines feral hogs (*Sus scrofa*), already identified as a nuisance species, as swine that are free-roaming or wild.*

4VAC15-20-160. Nuisance species designated.

A. The board hereby designates the following species as nuisance species pursuant to § 29.1-100 of the Code of Virginia.

1. Mammals.
 - a. House mouse (*Mus musculus*);
 - b. Norway rat (*Rattus norvegicus*);
 - c. Black rat (*Rattus rattus*);
 - d. Coyote (*Canis latrans*);
 - e. Feral hog (*Sus scrofa*) *scrofa*; any swine that are free-roaming or wild);
 - f. Nutria (*Myocastor coypus*); and
 - g. Woodchuck (*Marmota monax*).
2. Birds.
 - a. European starling (*Sturnus vulgaris*);
 - b. English (house) sparrow (*Passer domesticus*); and
 - c. Pigeon (Rock Dove) (*Columba livia*).
 - d. Other nonnative species as defined in the Migratory Bird Treaty Reform Act of 2004 and regulated under 50 CFR 10.13.

B. It shall be unlawful to take, possess, transport, or sell all other wildlife species not classified as game, furbearer or

nuisance, or otherwise specifically permitted by law or regulation.

V.A.R. Doc. No. R14-4096; Filed June 25, 2014, 10:57 a.m.

Proposed Regulation

Title of Regulation: 4VAC15-290. Game: Permits (amending 4VAC15-290-160).

Statutory Authority: §§ 29.1-103, 29.1-501, and 29.1-502 of the Code of Virginia.

Public Hearing Information:

August 19, 2014 - 9 a.m. - Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, VA 23230

Public Comment Deadline: August 8, 2014.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

Summary:

The proposed amendments (i) restrict issuance of foxhound training preserve permits to facilities that existed on January 1, 2014; (ii) limit the number of foxes stocked annually in preserves to 900; (iii) define the process for determining the number of foxes that can be stocked in each preserve annually; (iv) adjust the statewide fox stocking limit if a preserve permanently ceases operation; (v) establish a reporting system for preserve operators to report the transport and delivery of foxes to preserves; (vi) clarify that permits shall not be denied for recordkeeping failures or technical violations; and (vii) specify that no permits shall remain valid after July 1, 2054.

4VAC15-290-160. Foxhound training preserves.

A. ~~A permit shall be required for the~~ The operation of a foxhound training preserve in the Commonwealth shall be lawful only when conducted in compliance with the requirements of a permit issued by the department. ~~The director or his designee may issue, deny, renew, modify, suspend, and revoke permits for the operation of foxhound training preserves.~~ In accordance with § 29.1-525.2 of the Code of Virginia, a permit may only be issued for a location at which, as of January 1, 2014, a foxhound training preserve existed and was operating under a permit issued by the department.

B. Permit requirements shall include, but not be limited to:

1. Application requirements, including:

- a. Operator information, including name, date of birth, address, phone number, and email address, as well as an indication as to whether the operator has previously been convicted of any federal or state wildlife law or regulation violation and, if so, a description of such conviction.

- b. Preserve information, including whether the preserve is public or private, the name and location of the preserve, the names and addresses of adjacent landowners, and the mailing address and phone number of the preserve, if different from the operator.
 - c. Evidence of the size of the preserve. A 7-1/2 minute 1:24,000 topographic map or aerial image indicating the fenced area shall be provided. For preserves under 150 acres, or where determined necessary by the department to determine compliance with minimum acreage requirements, the department shall further require a plat of legible scale by a certified land surveyor that shows ties to property lines (submeter) and is produced using a differential global positioning system capable of producing submeter accuracy positioning, which shall be reviewed by the department and must indicate that the fenced area is 100 acres to an accuracy level of plus or minus one acre.
 - d. An application fee of \$50.
 - e. A certification statement by the operator attesting to the accuracy of the application and agreeing to notification of the department of any change within 30 days.
2. Provisions establishing a permit term of one year, after which permits may be renewed in accordance with the department's permit renewal procedures.
 3. Acreage requirements specifying that each preserve must be at least 100 contiguous acres completely fenced. Facilities that consist of less than 100 contiguous acres permitted prior to August 15, 2013, may remain permitted so long as permit coverage is continuously maintained. The map or aerial image of the preserve boundaries must be on file with the department, and must be updated if any landowner changes, or if boundaries are altered.
 4. Fencing requirements sufficient to prevent foxes and hounds from entering or escaping the enclosure. These requirements may include requirements for double strands of barbed wire at the top and electric wire at the bottom of the perimeter fencing and at all gates around the preserve, or other such fencing as deemed necessary. Such requirements shall also require rounded fence corners within the enclosure or the use of interior fencing to provide dog-proof escape areas at nonrounded fence corners.
 5. Habitat and escape cover requirements, including adequate natural cover within the enclosure and at least one man-made dog-proof escape structure per 20 acres, unless greater escape cover is deemed necessary based on an inspection of the enclosure. Each escape structure or device must offer foxes effective refuge from dogs at all times and shall be appropriately distributed throughout the enclosure.
6. Requirements that all persons participating in the training of foxhounds in a preserve, unless specifically exempted by law, shall have a valid resident or nonresident Virginia hunting license, or a nonresident license to hunt exclusively in foxhound training preserves. Participants are not required to have a hunting license when participating in a dog field trial authorized by the department.
 - a. Hunting of any species other than foxes is prohibited within the preserve unless otherwise provided for by the department.
 - b. A dog field trial permit shall be required for all field trials.
 7. Requirements for training and field trials held within the preserve, including:
 - a. Hound density restrictions specifying the maximum number of dogs that may be trained or participate in field trials in the enclosure at any one time. This maximum hound density shall not exceed one dog per two acres of preserve. When deemed necessary, more restrictive hound densities may be required, based on available escape cover and past history of hound-related mortality events.
 - b. Limits on the number of days per week during which training or field trials may occur. Training or field trials with foxhound densities exceeding one dog per 10 acres shall not be permitted for two days prior to and two days after any field trial event and shall be limited to a maximum of five days per week.
 - c. All dogs training or participating in field trial events within the preserve shall be up to date on their rabies vaccinations. Proof of rabies vaccination status shall consist of a current rabies certificate signed by a licensed veterinarian.
 - d. No field trial event shall provide for a cash or monetary prize to the participants.
 8. Provisions regarding the stocking of the enclosure, including:
 - a. In accordance with § 29.1-525.2 of the Code of Virginia, the total number of foxes stocked annually in all preserves combined shall not exceed 900. The department shall determine the maximum number of foxes that may be stocked in each preserve based on the proportion of the preserve acreage in relation to the total acreage of all preserves. The department shall make these determinations annually and will provide notice to each permit holder of the permitted allocation for that year at least 30 days in advance of the fox trapping season. If a preserve ceases operation, its allocation of foxes from the previous year shall be deducted from the total number of foxes that may be stocked in all preserves statewide.
 - a. b. The purchase of foxes for the purposes of stocking a preserve shall be prohibited. However, the time and expenses of trappers supplying foxes may be reimbursed,

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so long as a written receipt detailing the amount paid and the specific expenses being reimbursed is prepared and given to the trapper, with a copy retained by the preserve operator. Receipts shall be retained by both parties for two years and are subject to inspection by the department at any time.

~~b.~~ c. Only wild, live-trapped red (*Vulpes vulpes*) and gray (*Urocyon cinereoargenteus*) foxes may be released into preserves. Foxes may only be trapped for stocking purposes within the Commonwealth. No importation of foxes from out of state is permitted nor may foxes be relocated from one preserve to another, except that foxes may be transported from acclimation training enclosures to another enclosure of the same operator. Release of coyotes into foxhound training preserves is prohibited.

~~e.~~ d. Live-trapped wild foxes may be released only in preserves that are operating under a valid permit and are open to the public for foxhound training purposes.

~~d.~~ e. Acclimation requirements providing a minimum of seven days for foxes to become familiar with available food and habitat resources within the enclosure prior to any dog training or field trial event and 14 days prior to any dog training at hound densities exceeding one dog per 10 acres.

~~e.~~ f. All preserves shall provide the necessary habitat to meet the food, water, and cover requirements of wild foxes.

~~f.~~ g. The department shall be notified of any fox mortality or observation of diseased foxes within the preserve. The department may require specific health management procedures as deemed necessary and may suspend the operation of the preserve or halt stocking at any time warranted. Inspection and treatment of foxes by a licensed veterinarian may be required at the operator's expense. In the event of disease outbreaks, costs associated with testing, depopulating, cleaning, and disinfecting shall be the sole expense of the operator.

9. Provisions to prevent the ingress of black bears and, as deemed appropriate, other wildlife into the enclosure, and procedures for reporting the ingress of bears into the enclosure and the removal of bears or other wildlife.

10. Recordkeeping and reporting requirements, including:

a. Maintenance of a registry of the names, addresses, and phone numbers of all hunters training hounds or participating in field trials, the dates hunted, and the number of dogs per hunt. A separate contact list with the complete address and telephone number for each hunter may be maintained in lieu of the contact information in the registry.

b. The development and submission of a report to the department that includes the number, species (red or gray), and source of all foxes trapped and stocked in the preserve, including the name and address of each trapper,

the county of origin of each fox, and the capture and release dates of each fox. This report shall be submitted by March 15 of each year, and no permit shall be renewed if the report is not submitted.

c. All records shall be kept current and retained for a period of two years and are subject to inspection by the department at any time.

11. Provisions allowing for inspections of the enclosure and of the permittee's records by the department at the time of application, during annual inspections, or at any other time. The department may also conduct disease testing of transported foxes and wildlife within the enclosure at any time.

12. Such other conditions as may be determined appropriate by the department.

~~B.~~ C. The director or his designee may grant variances to the requirements of subsection A of this section where it is determined by the department that the imposition of a requirement would impose an unreasonable burden on the operator and that the purposes of the requirement can be substantially fulfilled by alternative conditions. Any relief granted shall be the minimum necessary, documented in the operator's permit, and subject to review by the department at each permit renewal.

~~C.~~ D. It shall be lawful for any foxhound training preserve permittee, and licensed trappers designated in writing by the permittee and approved by the department, to live-trap and transport red and gray foxes from September 1 through the last day of February, both dates inclusive, only for the purpose of stocking foxhound training preserves covered by permits issued pursuant to this section. For the purpose of this section, foxes may be live-trapped on private lands with landowner permission or on public lands designated by the department and transported within the Commonwealth, unless otherwise specifically prohibited. Trapping expenses may be reimbursed by the preserve owner as provided in this section; however, in no case shall the direct sale of foxes or payment on a per fox basis be permitted. Except as provided in this section, all trapping shall otherwise comply with laws and regulations governing trapping.

1. The preserve operator may designate in writing no more than 10 licensed trappers from whom foxes may be obtained. Any person convicted of violating any provision of state or federal hunting and trapping laws and regulations shall not be eligible to supply foxes to preserves for at least two years and up to five years following the most recent violation. In determining the appropriate length of restriction, the department shall take into account the nature and severity of the most recent violation and any past violation.

2. All live-trapped foxes must be taken by legal means and foxes transported or held for release shall be kept in safe, sanitary, and humane conditions with water and food available and with protection from the elements.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Extension of Emergency Regulation

Titles of Regulations: **8VAC20-30. Regulations Governing Adult High School Programs (amending 8VAC20-30-20).**

8VAC20-680. Regulations Governing the General Achievement Diploma (repealing 8VAC20-680-10, 8VAC20-680-20).

Statutory Authority: §§ 22.1-224 and 22.1-253.13:4 of the Code of Virginia.

Expiration Date Extended Through: January 16, 2015.

On June 25, 2014, the Governor approved the State Board of Education's request to extend the expiration date of the above-referenced emergency regulation as provided in § 2.2-4011 D of the Code of Virginia. The emergency regulation was published in [29:21 VA.R. 2553-2555 June 17, 2013](#). The emergency regulation became effective in July 2013. The emergency regulation mirrors the provisions of the Code of Virginia, and no public comments were received. The replacement regulation was approved by the board on November 21, 2013. It will be impossible for the permanent regulation to move through the remainder of the regulatory process under the Administrative Process Act before the emergency regulation expires. If the emergency regulation expires before the permanent regulation is effective, it will result in confusion for school divisions, families, and educators regarding the status of the General Achievement Diploma and the requirements of the General Achievement Adult High School Diploma.

Agency Contact: Anne Wescott, Assistant Superintendent for Policy and Communication, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2403, or email anne.wescott@doe.virginia.gov.

VA.R. Doc. No. R13-3303; Filed June 25, 2014, 2:15 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Proposed Regulation

Title of Regulation: **12VAC5-71. Regulations Governing Virginia Newborn Screening Services (amending 12VAC5-71-30).**

Statutory Authority: §§ 32.1-12 and 32.1-67 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 12, 2014.

3. Foxes may be retained for no more than seven days following their capture, and all foxes must be transported to the preserve by the final day of the trapping season. Records shall be maintained by trappers as to the length of time that each fox is retained in their possession and shall be subject to inspection by the department at any time.

4. A department-issued stocking tag is required for each fox stocked in a preserve. Each year, after 2014, the department shall distribute tags to each permit holder at least 30 days prior to the commencement of the fox trapping season. The number of tags the department issues to a permit holder shall correspond with that permit holder's annual allocation of foxes as determined by the department in accordance with § 29.1-525.2 of the Code of Virginia. Permit holders are not required to utilize all tags issued to them. Unused tags shall not be transferrable to any other preserve.

a. A tag must be filled out by the preserve operator prior to transport of each fox to the preserve. The tag number must be provided to the trapper prior to transport of the fox and must be in the possession of the trapper or preserve operator who is delivering the fox to the preserve during transport. Upon receipt of a fox, the preserve operator must (i) provide the trapper with a copy of the completed tag, (ii) retain a copy of the tag, and (iii) mail the completed original tag to the department within seven working days. The permit holder and the trapper must retain their copy of the tag for a period of two years following the end of the permit year.

b. Each completed tag shall provide information that includes the species of fox, the name of the trapper, the county where the fox was trapped, the date the fox was trapped, and the date the fox was delivered to the preserve.

⊘ E. Failure to comply with the provisions of a permit or the requirements of this section or other applicable wildlife laws or regulations may result in modification, suspension, or revocation of the permit, or denial of a permit application. The department shall not deny a permit to an existing location solely due to recordkeeping failures or other technical violations of the regulations governing foxhound training preserves. Recordkeeping failure does not include a deceptive practice or a deliberate, intentional, or willful failure to perform recordkeeping, in whole or in part. "Technical violation" means a violation of these regulations that is minor and unintended.

F. No permit shall remain valid after July 1, 2054.

VA.R. Doc. No. R14-4095; Filed June 25, 2014, 10:37 a.m.

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Agency Contact: Dev Nair, Ph.D., Director, Policy and Evaluation Division, Office of Family Health Services, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7662, FAX (804) 864-7647, or email dev.nair@vdh.virginia.gov.

Basis: The State Board of Health is authorized to make, adopt, promulgate, and enforce regulations by § 32.1-12 of the Code of Virginia. Section 32.1-65 of the Code of Virginia requires newborn screening to be conducted on every infant born in the Commonwealth of Virginia. Section 32.1-67 of the Code of Virginia requires the board to promulgate regulations as necessary to implement newborn screening services. The regulations are required to include a list of newborn screening tests pursuant to § 32.1-65.

Purpose: All newborns in Virginia would be screened for Severe Combined Immunodeficiency (SCID) as a result of this proposed regulatory action. SCID is currently estimated to occur in approximately one out of every 50,000 live births, and some data suggest that figure could be higher. SCID is a term applied to a group of inherited disorders characterized by defects in both T-cell and B-cell responses. The defining characteristic of SCID is the absence of T cells and, as a result, lack of B-cell function, the specialized white blood cells made in the bone marrow to fight infection. Neonates with SCID appear healthy at birth, but without early treatment, most often by bone marrow transplant from a healthy donor, these infants cannot survive or, if they do, have significant morbidities. In addition, the success of the bone marrow transplantation decreases with delayed diagnosis, mostly due to underlying infections. All these factors also add to the cost of care of these patients. Undiagnosed cases are 100% fatal.

Screening for SCID gives affected infants the advances of early diagnosis and treatment. Early identification results in a higher survival rate, better outcomes, and lower healthcare costs. Screening for SCID is an imperative diagnostic tool since SCID cannot be detected by a physical examination. Laboratory screening is available for high volume testing at a reasonable cost.

SCID was added to the Recommended Uniform Screening Panel (RUSP) by U.S. Health and Human Services Secretary Kathleen Sebelius following extensive study and recommendation from the Secretary's Advisory Panel on Heritable Disorders in Newborns and Children. The Virginia Genetics Advisory Committee also unanimously voted to recommend to the State Health Commissioner that SCID be added to the state newborn screening panel. A Virginia SCID Planning Workgroup met September 21, 2012, to formulate a plan and discuss issues surrounding the possible addition of this condition to the Virginia panel. It is anticipated that Virginia would begin screening for SCID in 2014.

Substance: The changes proposed to 12VAC5-71 will revise the listing of specific disorders for which screening is conducted by adding SCID to the state's core panel.

Currently, the Division of Consolidated Laboratory Services (DCLS) analyzes biological markers that may be indicative of 28 certain disorders that constitute the core panel. Section 32.1-67 of the Code of Virginia requires that this list of screened disorders be in the regulation. Section 32.1-65 of the Code of Virginia requires that Virginia's screening tests are consistent with the panel recommended by the U.S. Secretary of Health and Human Services and the Secretary's Advisory Committee on Heritable Disorders in Newborns and Children.

Issues: The primary advantage of this regulatory action to the public and to the Commonwealth is universal access to early diagnosis and treatment of SCID. Screening for SCID allows for early identification of the disease, which then leads to higher survival rates, better health outcomes, and lower costs.

A pertinent matter of interest to the regulated community, government officials, and the public is the projected increase in the cost of the blood spot screening panel. Newborn screening is a fee-for-service program, and the fee is paid by hospitals and other screeners who must purchase the filter paper kits used for blood spot collection. Most screening is performed in hospitals, with about 10% to 15% of screenings performed by private physicians and military facilities. Hospitals do not generally pass on these costs to patients because third-party payers usually pay a negotiated bundled amount per delivery, and Medicaid-reimbursed delivery payment is set by the Commonwealth. Self-pay patients may be responsible to pay the screening fee themselves if they have the resources to do so.

Since the SCID screening assay is based on new highly sensitive, specific molecular detection methodology not previously employed by the newborn screening laboratory, the DCLS requires additional capital equipment, staff, and some laboratory renovation to conduct SCID screening. Based on current cost estimates and the current number of samples being tested annually, the cost to add SCID screening will be \$7.50 per sample. Adjustments to this estimate are possible if DCLS receives a grant for two-year funding from the Centers for Disease Control and Prevention. This funding source could potentially contribute up to \$300,000 in both FY 2014 and FY 2015 towards lab-related costs associated with adding SCID to the panel.

The \$7.50 fee for SCID testing is part of a more comprehensive fee increase for the newborn screening panel that will also cover costs for additional Department of Health follow-up personnel and other screening-related expenses such as test kits used for cystic fibrosis mutation analysis. These other screening-related expenses will have an estimated fiscal impact of an additional \$15.50 to \$17.50 per panel. As a result, the total cost of the blood spot screening panel is estimated to increase from \$53 to between \$76 and \$78. This estimate reflects a cost that would be at or below the national average fee of \$78 among seven fee-based newborn screening programs that have implemented SCID testing. It should also

be noted that the Virginia newborn screening program has not had a fee increase since 2006.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The State Board of Health (Board) proposes to add Severe Combined Immunodeficiency (SCID) to the newborn screening panel.

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

Estimated Economic Impact¹. Blood spot newborn screening services are provided by the Department of General Services' Division of Consolidated Laboratory Services (DCLS) in partnership with the Virginia Department of Health. SCID is a primary immunodeficiency disease that is estimated to occur in approximately 1 out of every 50,000 live births. Undiagnosed cases are 100% fatal. Effective treatment for SCID is available if it is detected early. Screening is necessary as this disease cannot be detected through physical examinations. The addition of SCID to the newborn screening panel has been recommended by the Virginia Genetics Advisory Committee and on a national level, this disease has been added to the core panel of 31 genetic disorders included in the Recommended Uniform Screening Panel of the U.S. Secretary of Health and Human Services' Advisory Committee on Heritable Disorders in Newborns and Children.

In 2011, there were 101,032 live births in the Commonwealth.² Thus, adding SCID to the newborn screening panel could potentially save approximately two lives a year.

Newborn screening is a fee-for-service program, and the fee is paid by hospitals and other screeners (to DCLS) who must purchase the filter paper kits used for blood spot collection. Most screening is performed in hospitals, with about 10% to 15% of screening performed by private physicians and military facilities.

Since the SCID screening assay is based on new highly sensitive, specific molecular detection methodology not previously employed by the newborn screening laboratory, DCLS requires additional capital equipment, staff and some laboratory renovation to conduct SCID screening. Based on current cost estimates and the current number of samples being tested annually, the cost to add SCID screening will be \$7.50 per sample. Adjustments to this estimate are possible if DCLS receives a grant for two-year funding from the Centers for Disease Control and Prevention. This funding source could potentially contribute up to \$300,000 in both FY 2014 and FY 2015 towards lab related costs associated with adding SCID to the panel.

With approximately 100,000 live births a year, the estimated \$7.50 cost increase will increase aggregate costs by about \$750,000 per annum, while potentially saving approximately two lives a year. Assuming that we value life at more than

\$375,000 per person, the proposed addition of Severe Combined Immunodeficiency to the newborn screening panel should produce a net benefit.

Businesses and Entities Affected. The proposed amendment will affect the 63 birth hospitals and birth centers, as well as their staff, and the sixty seven licensed midwives in Virginia. Newborns and their families will also be affected.

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

Projected Impact on Employment. The proposed amendment will likely require that the Department of General Services' Division of Consolidated Laboratory Services hire additional staff.

Effects on the Use and Value of Private Property. The proposed amendment is unlikely to significantly affect the use and value of private property.

Small Businesses: Costs and Other Effects. The proposed amendment is unlikely to significantly affect costs for small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed amendment is unlikely to adversely affect small businesses.

Real Estate Development Costs. The proposed amendment is unlikely to significantly affect real estate development costs.

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

¹All data were provided by the Virginia Department of Health.

²Calendar year 2011 was the most recent year this datum was available.

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Agency's Response to Economic Impact Analysis: The Virginia Department of Health concurs with the results of the analysis.

Summary:

The proposed amendment adds "Severe Combined Immunodeficiency" to the list of newborn screening tests conducted pursuant to § 32.1-65 of the Code of Virginia.

12VAC5-71-30. Core panel of heritable disorders and genetic diseases.

A. The Virginia Newborn Screening System, which includes Virginia Newborn Screening Program and the Virginia Early Hearing Detection and Intervention Program, shall ensure that the core panel of heritable disorders and genetic diseases for which newborn screening is conducted is consistent with but not necessarily identical to the U.S. Department of Health and Human Services Secretary's Recommended Uniform Screening Panel.

B. The department shall review, at least biennially, national recommendations and guidelines and may propose changes to the core panel of heritable disorders and genetic diseases for which newborn dried-blood-spot screening tests are conducted.

C. The Virginia Genetics Advisory Committee may be consulted and provide advice to the commissioner on proposed changes to the core panel of heritable disorders and genetic diseases for which newborn dried-blood-spot screening tests are conducted.

D. Infants under six months of age who are born in Virginia shall be screened in accordance with the provisions set forth in this chapter for the following heritable disorders and genetic diseases, which are identified through newborn dried-blood-spot screening tests:

1. Argininosuccinic aciduria (ASA);
2. Beta-Ketothiolase deficiency (BKT);
3. Biotinidase deficiency (BIOT);
4. Carnitine uptake defect (CUD);
5. Classical galactosemia (galactose-1-phosphate uridylyltransferase deficiency) (GALT);
6. Citrullinemia type I (CIT-I);
7. Congenital adrenal hyperplasia (CAH);
8. Cystic fibrosis (CF);
9. Glutaric acidemia type I (GA I);
10. Hb S beta-thalassemia (Hb F,S,A);
11. Hb SC-disease (Hb F,S,C);
12. Hb SS-disease (sickle cell anemia) (Hb F, S);
13. Homocystinuria (HCY);
14. Isovaleric acidemia (IVA);
15. Long chain L-3-Hydroxy acyl-CoA dehydrogenase deficiency (LCHAD);
16. Maple syrup urine disease (MSUD);

17. Medium-chain acyl-CoA dehydrogenase deficiency (MCAD);
18. Methylmalonic acidemia (Methylmalonyl-CoA mutase deficiency) (MUT);
19. Methylmalonic acidemia (Adenosylcobalamin synthesis deficiency) (CBL A, CBL B);
20. Multiple carboxylase deficiency (MCD);
21. Phenylketonuria (PKU);
22. Primary congenital hypothyroidism (CH);
23. Propionic acidemia (PROP);
24. Severe combined immunodeficiency (SCID);
- ~~24.~~ 25. Tyrosinemia type I (TYR I);
- ~~25.~~ 26. Trifunctional protein deficiency (TFP);
- ~~26.~~ 27. Very long-chain acyl-CoA dehydrogenase deficiency (VLCAD);
- ~~27.~~ 28. 3-hydroxy 3-methyl glutaric aciduria (HMG); and
- ~~28.~~ 29. 3-Methylcrotonyl-CoA carboxylase deficiency (3-MCC).

E. Infants born in Virginia shall be screened for hearing loss in accordance with provisions set forth in §§ 32.1-64.1 and 32.1-64.2 of the Code of Virginia and as governed by 12VAC5-80.

VA.R. Doc. No. R13-3569; Filed June 26, 2014, 9:40 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Final Regulation

REGISTRAR'S NOTICE: The Board of Audiology and Speech-Language Pathology is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Audiology and Speech-Language Pathology will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC30-20. Regulations Governing the Practice of Audiology and Speech-Language Pathology (amending 18VAC30-20-170).**

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

Effective Date: August 13, 2014.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Audiology and Speech-Language Pathology, 9960

Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4630, FAX (804) 527-4413, or email leslie.knachel@dhp.virginia.gov.

Summary:

The amendments remove the Board of Education as a licensing entity for school speech-language pathologists thereby making the Board of Audiology and Speech-Language Pathology the only licensing entity. In addition, the amendments put mechanisms in place for the transition in licensing. The amendments to this regulation conform to changes in the Code of Virginia enacted by Chapter 781 of the 2014 Acts of Assembly.

Part III
Requirements for Licensure

18VAC30-20-170. Requirements for licensure.

A. The board may grant a license to an applicant who:

1. Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech-Language-Hearing Association, certification issued by the American Board of Audiology or any other accrediting body recognized by the board. Verification of currency shall be in the form of a certified letter from a recognized accrediting body issued within six months prior to licensure; and
2. Has passed the qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure, or has been actively engaged in the respective profession for which he seeks licensure for one of the past three consecutive years preceding the date of application; or

B. The board may grant a license to an applicant for licensure as a speech-language pathologist who:

1. Holds a master's degree or its equivalent as determined by the board or a doctoral degree from a college or university whose speech-language program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body; and
2. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure in Virginia or has been actively engaged as a speech-language pathologist for one of the past three consecutive years preceding the date of application.

C. The board may grant a license to an applicant as a school speech-language pathologist who: ~~1. Holds~~ holds a master's degree in speech-language-pathology; ~~and;~~

- ~~2. Holds an endorsement in speech language pathology from the Virginia Department of Education.~~

D. Any individual who holds an active, renewable license issued by the Virginia Board of Education with a valid endorsement in speech-language pathology on June 30, 2014,

shall be deemed qualified to obtain a school speech-language pathologist license from the board until July 1, 2016, or the date of expiration of such person's license issued by the Virginia Board of Education, whichever is later.

VA.R. Doc. No. R14-3989; Filed June 25, 2014, 8:36 a.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

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

Title of Regulation: **20VAC5-315. Regulations Governing Net Energy Metering (amending 20VAC5-315-10 through 20VAC5-315-70).**

Statutory Authority: §§ 12.1-13 and 56-594 of the Code of Virginia.

Effective Date: July 1, 2014.

Agency Contact: Armando J. de Leon, Utilities Engineer, Division of Energy Regulation, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9392, FAX (804) 371-9350, or email armando.deleon@scc.virginia.gov.

Summary:

Pursuant to Chapter 268 of the 2013 Acts of Assembly, § 56-594 of the Code of Virginia was amended to expand net energy metering in the Commonwealth to include eligible agricultural customer-generators. Chapter 268 requires the Commission to establish by regulation a program, beginning no later than July 1, 2014, for customers of investor-owned utilities and by July 1, 2015, for customers of electric cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The amendments to the rules provide a definition of agricultural customer-generators, require electric utilities to permit such customer-generators to aggregate loads served by separate meters, as required by Chapter 268, and establish the parameters for participation in net energy metering by agricultural customer-generators.

Changes from the proposed regulation include (i) revising the definition of "agricultural business" to include a business engaged in the production and sale of products collected from plants and animals, or plant and animal services; (ii) revising the definition of "person" to clarify that such term includes municipalities; (iii) in the

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definition of "agricultural net metering customer," modifying the phrase "virtually aggregated into one account" to read "aggregated into one account" and changing the phrase "rate schedule" to "tariff," in each case to reflect the language used in Chapter 268; (iv) eliminating the requirement that customer-generators with capacity greater than 25 kilowatts must contact the electric distribution company prior to making financial commitments, thereby maintaining the existing rule that does not place a legal requirement on customers to provide such advanced notice; and (v) making a number of technical modifications to the Interconnection Form to be provided by customer-generators to the electric distribution company.

AT RICHMOND, JUNE 23, 2014

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUE-2014-00003

Ex Parte: In the matter of amending regulations governing net energy metering

ORDER ADOPTING REGULATIONS

The Regulations Governing Net Energy Metering, 20 VAC 5-315-10 et seq. ("Existing Rules"), adopted by the State Corporation Commission ("Commission") pursuant to § 56-594 of the Code of Virginia, establish the requirements for participation by an eligible customer-generator in net energy metering in the Commonwealth of Virginia. The Existing Rules include conditions for interconnection and metering, billing, and contract requirements between net metering customers, electric distribution companies, and energy service providers.

On January 27, 2014, the Commission entered an Order Establishing Proceeding ("Order") to consider revisions to the Existing Rules to reflect statutory changes enacted by Chapter 268 of the 2013 Acts of Assembly ("Chapter 268"), which amended § 56-594 of the Code of Virginia to: (1) provide a definition of eligible agricultural customer-generators; (2) require utilities to permit agricultural customer-generators to aggregate loads served by multiple meters, as specified by Chapter 268; and (3) establish the required parameters for participation by such customer-generators in the net energy metering programs offered by investor-owned utilities and electric cooperatives under the Existing Rules.

The Commission appended to its Order proposed amendments ("Proposed Rules") revising the Existing Rules, which were prepared by the Staff of the Commission to provide for participation by eligible agricultural customer-generators in net metering programs pursuant to the revised statute.

Notice of the proceeding and the Proposed Rules were published in the Virginia Register of Regulations on February 24, 2014. Additionally, each Virginia electric distribution company was directed to serve a copy of the Order upon each

of their respective net metering customers. Interested persons were directed to file any comments and requests for hearing on the Proposed Rules on or before March 27, 2014.

Appalachian Power Company ("APCo"), Kentucky Utilities ("KU"), Virginia Electric and Power Company ("Virginia Power"), the Virginia Electric Cooperatives ("Cooperatives"),¹ Virginia Farm Bureau Federation ("Farm Bureau"), Virginia Agribusiness Council ("VAC"), Nandua Oyster Company ("Nandua") and Joy Loving filed comments. No one requested a hearing on the Proposed Rules.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the regulations attached hereto as Appendix A ("Revised Rules") should be adopted as final rules. To the extent parties have requested changes to the Proposed Rules that go beyond the scope of such rules, we will not expand the scope of this proceeding to consider issues beyond those required to implement the amendments to § 56-594 of the Code of Virginia.

Virginia Power, the Farm Bureau, and VAC each proposed revisions to the definition of "agricultural business" set forth in the Proposed Rules. The Proposed Rules defined agricultural business as "any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals useful to the public." We agree that additional clarity in this definition is appropriate and will adopt the language proposed by the Farm Bureau, which defines agricultural business as "any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals, products collected from plants and animals, or plant and animal services useful to the public."

APCo and Virginia Power each proposed that the provision that utilities "may charge the customer for optional metering equipment capable of being read off-site" be changed to provide that utilities "shall" charge customers for such equipment. The utilities claim that this revision would eliminate confusion. We find that such change is unnecessary. The word may has been used since the inception of the net metering rules, and the Commission continues to believe that the word may gives utilities flexibility in assessing this charge.

APCo recommends that utilities have at least 120 days from the effective date of the Revised Rules to develop procedures and to file new tariff schedules that incorporate agricultural net metering customers. APCo claims that this would permit each utility to coordinate the filing of these new tariff schedules simultaneously with any others that are to be filed at about the same time. We continue to find, however, that requiring new tariff schedules to be filed 60 days after the effective date of the Revised Rules is reasonable.

KU proposed two revisions to the Proposed Rules. First, KU recommended that the Commission omit any language stating

that non-agricultural net metering customers may install multiple generating units. KU reasons that because the statute uses the word "aggregated" in its definition of eligible agricultural customer-generator, but does not do so in its definition of a non-agricultural customer-generator, it follows that only agricultural customers are permitted to own more than one generating unit. The statute, however, has never prohibited customer-generators from owning more than one generating unit. We find that the statute's use of the word "aggregated" reflects that multiple meters may be involved in agricultural net metering and that the total generating capacity behind all of those meters is subject to the limit of 500 kW.

KU also recommends that, because the revised statute refers to an "eligible agricultural customer-generator" as "a customer that operates a renewable energy generating facility as part of an agricultural business . . .," an agricultural net metering customer must be the operator of its facility and cannot contract with others to perform that operation. KU notes that the revised statute states that a non-agricultural net metering customer is "a customer that owns and operates, or contracts with another to own, operate, or both, an electrical generating facility . . .," but that the revised statute does not make an identical provision for agricultural net metering customers. Under the statute, an agricultural customer-generator must be part of a larger agricultural business enterprise. The statute, however, does not expressly prohibit these agricultural businesses from entering into a contract with another to effectuate this specific part of its business, just as it could for other facets of the business. Based on this record, we find that no such prohibition is necessary in the Revised Rules.

Virginia Power recommends that the Proposed Rules specifically state that an agricultural net metering customer is subject to the same excess facilities charges associated with account aggregation as is any customer that aggregates metered accounts. Excess facilities charges, however, are already covered by the general provision of Rule 50 of the Existing Rules, which states that "[e]ach contract or tariff governing the relationship between a customer, electric distribution company or energy service supplier shall be identical, with respect to the rate structure, all retail rate components, and monthly charges, to the contract or tariff under which the same customer would be served if such customer were not net metering with the exceptions that a residential net metering customer or an agricultural net metering customer whose generating facility has a capacity that exceeds 10 kilowatts shall pay any applicable tariffed monthly standby charges to the supplier, and that time-of-use metering under an electricity supply service tariff having no demand charges is not permitted." Thus, we find that additional language directed toward agricultural net metering is unnecessary.

Virginia Power recommends, at various points in the Proposed Rules, insertion of the phrases agricultural, non-agricultural, net metering, or prospective to clarify the

meaning of the applicable rule. We find that certain clarifications in this regard are reasonable and have revised the Proposed Rules to clarify whether the applicable rule applies to agricultural customer-generators, non-agricultural customer-generators, prospective customer-generators, or some combination of these categories.

Virginia Power and the Cooperatives propose that the Proposed Rules be revised to accommodate language contained in the Terms and Conditions applicable to customers. For example, Virginia Power requests that the word "controlled" be changed to "leased" in the definition of "eligible agricultural customer-generator" in Rule 20 of the Proposed Rules in order to match the language in the Company's Terms and Conditions, which states that an applicant for electric service must be a bona fide owner or lessee. Similarly, Virginia Power and the Cooperatives recommend that the proposed definition of "contiguous sites" be pre-empted by the definition that appears in the Terms and Conditions of the utility. Virginia Power asserts that having a different definition of contiguity for agricultural net metering customers than for all of its other customers could create inconsistency, cause confusion, and be unworkable. The Cooperatives contend that the Commission should provide utilities the flexibility to define contiguity according to their own policies and practices.

We will not revise the Proposed Rules as requested by Virginia Power and the Cooperatives. The revised statute uses the word controlled, not leased. In addition, we find that it is reasonable to develop a uniform definition of contiguity to be applied to eligible agricultural net metering customers under this statute.

The Proposed Rules define "person" as "any individual, sole proprietorship, corporation, limited liability company, partnership, association, company, business, trust, joint venture, or other private legal entity, the Commonwealth, or any municipality." Virginia Power recommends that this definition be revised to match the definition contained in the Commission's Rules Governing Retail Access to Competitive Energy Services, 20 VAC 5-312-10, by changing the word "municipality" to "city, county, town, authority, or other political subdivision of the Commonwealth." We find that such change is reasonable and have revised the Proposed Rules accordingly.

Virginia Power and the Cooperatives both propose that language be added to the Proposed Rules to state that all prospective net metering customers must contact the electric distribution company prior to making any financial commitments. In addition, the Proposed Rules suggested similar language that would require above-25 kW customers to contact the electric distribution company prior to making financial commitments. Upon consideration of this matter, we find it is reasonable for the Revised Rules to continue to reflect the Existing Rules in this regard, which do not place a

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legal requirement on customers to provide such advanced notice.

Virginia Power recommends that an agricultural net metering customer not be permitted to interconnect generation in fewer than ninety days after submission of the required interconnection form in order to permit the utility to have time to "administer aggregation." Virginia Power's recommendation, however, could add between thirty and sixty days (depending on the size of the generator) of idle time before the facility could begin operation. Based on this record, we do not find that the existing requirements provide an inadequate amount of time for the utility to administer the interconnection request.

Virginia Power recommends adding language stating that a final electrical inspection by the applicable building authority can serve in place of the currently required certification by a licensed electrician when installations are not done by an electrician, but rather by the customer or a licensed Virginia Class A or Class B general contractor. Virginia Power states that the final electrical inspection reasonably substitutes for an electrician certification. We find that such change is reasonable and have revised the Interconnection Form to reflect this revision.

Virginia Power also proposed a number of additional clarifications to the Interconnection Form and the Proposed Rules. Upon consideration thereof, we find that it is reasonable to implement Virginia Power's proposed revisions to the Interconnection Form and to insert the word "and" to Subdivision A 7 of Rule 50.

The Cooperatives recommend that the word "virtually" be removed from the phrase "virtually aggregated into one account" where it appears in Rule 20 of the Proposed Rules in the definition of "agricultural net metering customer." The Cooperatives assert that this phrase adds ambiguity, given that the word "virtually" is not used in the statute. We find that such suggestion is reasonable and adopt the Cooperatives' proposed modification.

The proposed definition of "agricultural net metering customer" provides that any such account shall be served under the applicable rate schedule. The Cooperatives recommend that this language be revised to match the statute, which uses the word "tariff," rather than "rate schedule." We find that such suggestion is reasonable and adopt the Cooperatives' proposed modification.

The Cooperatives also recommend amending the Proposed Rules to assure that the capacity of an agricultural net metering customer's generating facility has a reasonable relationship to the size of the customer's metered load. We do not find that such proposed revision is necessary. Rather, we conclude that the Existing Rules sufficiently require that a facility must be used primarily to provide energy to the associated net metered accounts.

Nandua filed comments expressing concern that existing net metering customers would be forced to become agricultural

net metering customers. Nandua did not request changes to the Proposed Rules. In response to Nandua's comments, the Commission clarifies that nothing in the Proposed Rules requires an existing customer-generator to become an agricultural customer-generator, so long as such customer's interconnection remains through a single meter.

Finally, Joy Loving requested changes to the contiguity requirement, utility deadlines, and threshold for imposing standby charges. Upon consideration of these requests, we conclude that changes in this regard are unnecessary and that the Revised Rules adequately address such issues pursuant to the statute.

Accordingly, IT IS ORDERED THAT:

- (1) The Revised Rules, as shown in Appendix A to this Order, are hereby adopted and are effective for customers of investor-owned electric utilities as of July 1, 2014.
- (2) The Revised Rules, as shown in Appendix A to this Order, are hereby adopted and are effective for customers of electric cooperatives as of July 1, 2015.
- (3) A copy of this Order with Appendix A, including the Revised Rules, shall be forwarded to the Registrar of Regulations for publication in the Virginia Register of Regulations.
- (4) On or before September 1, 2014, each investor-owned electric utility in the Commonwealth subject to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia shall file with the Clerk of the Commission, in this docket, one (1) original document containing any revised tariff provisions necessary to implement the regulations adopted herein and shall also file a copy of the document containing the revised tariff provisions with the Commission's Division of Energy Regulation. The Clerk of the Commission need not distribute copies but shall make such filings available for public inspection in the Clerk's Office and post them on the Commission's website at: <http://www.scc.virginia.gov/case>.
- (5) On or before September 1, 2015, each electric cooperative in the Commonwealth subject to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia shall file with the Clerk of the Commission, in this docket, one (1) original document containing any revised tariff provisions necessary to implement the regulations adopted herein and shall also file a copy of the document containing the revised tariff provisions with the Commission's Division of Energy Regulation. The Clerk of the Commission need not distribute copies but shall make such filings available for public inspection in the Clerk's Office and post them on the Commission's website at: <http://www.scc.virginia.gov/case>.
- (6) This docket shall remain open to receive the filings from electric utilities pursuant to Ordering Paragraphs (4) and (5).

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all electric distribution companies licensed in Virginia as shown on Appendix B, hereto; and a copy shall be sent to the Commission's Office of General Counsel and Division of Energy Regulation.

¹ The filing entitled "Comments of the Virginia Electric Cooperatives" was submitted jointly on behalf of: A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, as well as the Virginia, Maryland & Delaware Association of Electric Cooperatives.

20VAC5-315-10. Applicability and scope.

These regulations are promulgated pursuant to the provisions of § 56-594 of the Virginia Electric Utility Regulation Act (§ 56-576 et seq. of the Code of Virginia). They establish requirements intended to facilitate net energy metering for customers owning and operating, or contracting with persons to own or operate, or both, ~~an~~ electrical ~~generator~~ ~~generators~~ that ~~uses~~ ~~use~~ specific types of renewable energy, as defined by § 56-576 of the Code of Virginia as ~~its~~ the total fuel source. These regulations will standardize the interconnection requirements for such facilities and will govern the metering, billing, payment and contract requirements between net metering customers, electric distribution companies and energy service providers. Agricultural net metering customers are subject to the same provisions as nonagricultural net metering customers unless otherwise specified.

The amendments regarding agricultural net metering apply to customers of investor-owned electric utilities on July 1, 2014, and apply to customers of electric cooperatives on July 1, 2015, as provided in the State Corporation Commission's Order Adopting Regulations, Case No. PUE-2014-00003, dated June 23, 2014, and published in the Virginia Register of Regulations, Volume 30, Issue 23, July 14, 2014.

20VAC5-315-20. Definitions.

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

"Agricultural business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals [, products collected from plants and animals, or plant and animal services that are] useful to the public.

"Agricultural net metering customer" means a customer that operates an electrical generating facility consisting of one or more agricultural renewable fuel generators having an aggregate generation capacity of not more than 500 kilowatts as part of an agricultural business under a net metering service arrangement. An agricultural net metering customer

may be served by multiple meters of one utility that are located at separate but contiguous sites and that may be [~~virtually~~] aggregated into one account. This account shall be served under the appropriate [~~rate schedule~~ tariff].

"Agricultural renewable fuel generator" [or "agricultural renewable fuel generating facility"] means [~~an~~ one or more] electrical [~~generator~~ generators] that:

1. [~~Uses~~ Use] as [~~its~~ their] sole energy source solar power, wind power, or aerobic or anaerobic digester gas;
2. The agricultural [net metering] customer owns and operates, or has contracted with other persons to own or operate, or both;
3. [~~Is~~ Are] located on land owned or controlled by the agricultural business;
4. [~~Is~~ Are] connected to the [agricultural net metering] customer's wiring on the [agricultural net metering] customer's side of [~~its~~ the agricultural net metering customer's] interconnection with the distributor;
5. [~~Is~~ Are] interconnected and operated in parallel with an electric company's distribution facilities; and
6. [~~Is~~ Are] used primarily to provide energy to metered accounts of the agricultural business.

"Billing period" means, as to a particular [agricultural net metering customer or a net metering] customer, the time period between the two meter readings upon which the electric distribution company and the energy service provider calculate [the ~~a~~ agricultural net metering customer's or net metering] customer's bills.

"Billing period credit" means, for a nontime-of-use [agricultural net metering customer or a nontime-of-use] net metering customer, the quantity of electricity generated and fed back into the electric grid by the [agricultural net metering] customer's ~~renewable fuel~~ [agricultural renewable fuel generator or generators or by the net metering customer's renewable fuel] generator ~~or generators~~ in excess of the electricity supplied to the customer over the billing period. For time-of-use [agricultural net metering customers or time-of-use] net metering customers, billing period credits are determined separately for each time-of-use tier.

"Contiguous sites" means a group of land parcels in which each parcel shares at least one boundary point with at least one other parcel in the group. Property whose surface is divided only by public right-of-way is considered contiguous.

"Customer" means a net metering customer or an agricultural net metering customer.

"Demand charge-based time-of-use tariff" means a retail tariff for electric supply service that has two or more time-of-use tiers for energy-based charges and an electricity supply demand (kilowatt) charge.

"Electric distribution company" means the entity that owns and/or operates the distribution facilities delivering electricity to ~~the net metering~~ [~~a~~ customer's ~~the~~] premises [of an

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agricultural net metering customer or a net metering customer].

"Energy service provider (supplier)" means the entity providing electricity supply service [either tariffed or competitive service,] to [an agricultural net metering customer or] a net metering customer [either as tariffed or competitive service].

"Excess generation" means the amount of [electricity generated by] the renewable fuel generator [a customer's electrical generating facility consisting of one or more generators electrical energy generated] in excess of the [electricity electrical energy] consumed by the [agricultural net metering customer or net metering] customer over the course of the net metering period. For time-of-use [agricultural net metering customers or net metering] customers, excess generation is determined separately for each time-of-use tier.

"Generator" [or "generating facility"] means [a an electrical generating facility consisting of one or more renewable fuel] generator generators or [an one or more agricultural renewable fuel] generator generators that meet the criteria under the definition of "net metering customer" and "agricultural net metering customer," respectively].

"Net metering customer-~~(customer)~~" means a customer owning and operating, or contracting with other persons to own or operate, or both, a an electrical generating facility consisting of one or more renewable fuel generator generators having an aggregate generation capacity of not more than 20 kilowatts for residential customers and not more than 500 kilowatts for nonresidential customers unless the electric distribution company has chosen a higher capacity limit for nonresidential customers in its net metering tariff. [This The generating] facility shall be operated under a net metering service arrangement.

"Net metering period" means each successive 12-month period beginning with the first meter reading date following the ~~date of~~ final interconnection of the renewable fuel generator [a an agricultural net metering customer or a net metering] customer's [electrical] generating facility consisting of one or more [agricultural renewable fuel] generators [or one or more renewable fuel generators, respectively,] with the electric [distribution] company's distribution facilities.

"Net metering service" means providing retail electric service to [a an agricultural net metering] customer operating [a] renewable fuel [generator or generators an agricultural renewable fuel generating facility or a net metering customer operating a renewable fuel generating facility] and measuring the difference, over the net metering period, between the electricity supplied to the customer from the electric grid and the electricity generated and fed back to the electric grid by the customer.

"Person" means any individual, sole proprietorship, corporation, limited liability company, partnership,

association, company, business, trust, joint venture, or other private legal entity ~~and,~~ the Commonwealth, or any [municipality city, county, town, authority, or other political subdivision of the Commonwealth].

"Renewable Energy Certificate-~~(REC)~~" or "REC" represents the renewable energy attributes associated with the production of one megawatt-hour (MWh) of electrical energy generated by a renewable fuel generator.

"Renewable fuel generator" [or "renewable fuel generating facility"] means [an one or more] electrical generating facility [generator generators] that:

- ~~1. Has an alternating current capacity of not more than 20 kilowatts for residential customers and not more than 500 kilowatts for nonresidential customers unless the electric distribution company has chosen a higher capacity limit for nonresidential customers in its net metering tariff;~~
- ~~2. 1.~~ [Uses Use] renewable energy, as defined by § 56-576 of the Code of Virginia, as [its their] total fuel source;
- ~~3. 2.~~ The net metering customer owns and operates, or has contracted with other persons to own or operate, or both;
- ~~4. 3.~~ [Is Are] located on the [net metering] customer's premises and [is] connected to the [net metering] customer's wiring on the [net metering] customer's side of its interconnection with the distributor;
- ~~5. 4.~~ [Is Are] interconnected pursuant to a net metering arrangement and operated in parallel with the electric [distribution] company's distribution facilities; and
- ~~6. 5.~~ [Is Are] intended primarily to offset all or part of the net metering customer's own electricity requirements.

"Time-of-use ~~net metering customer (time-of-use customer)~~" means [a] net metering [an agricultural net metering customer or net metering] customer receiving retail electricity supply service under a demand charge-based time-of-use tariff.

"Time-of-use period" means an interval of time over which the energy (kilowatt-hour) rate charged to a time-of-use customer does not change.

"Time-of-use tier-~~(tier)~~" or "tier" means all time-of-use periods given the same name (e.g., on-peak, off-peak, critical peak, etc.) for the purpose of time-differentiating energy (kilowatt-hour)-based charges. The rates associated with a particular tier may vary by day and by season.

20VAC5-315-30. Company notification.

A. ~~The~~ A prospective [agricultural] net metering customer or a prospective [agricultural] net metering customer [(hereinafter referred to as "customer")] shall submit a completed commission-approved notification form to the electric distribution company and, if different from the electric distribution company, to the energy service provider, according to the time limits in this subsection. If the [prospective] ~~net metering~~ customer has contracted with another person to own or operate, or both, the ~~renewable fuel~~

generator or generators, then the notice will include detailed, current, and accurate contract information for the owner or operator, or both, including without limitation, the name and title of one or more individuals responsible for the interconnection and operation of the generator or generators, a telephone number, a physical street address other than a post office box, a fax number, and an email address for each such person or persons.

1. For a renewable fuel generator ~~A [prospective] customer proposing to install an electrical generating facility~~ with an alternating current capacity of 25 kilowatts or less, ~~the notification form shall be submitted~~ submit the notification form at least 30 days prior to the date the [prospective] customer intends to interconnect ~~his renewable fuel generator the [facility's generator or generators generating facility]~~ to the electric [distribution] company's distribution facilities. ~~Such net metering customer shall have all~~ All equipment necessary to complete the grid interconnection [of the generating facility] shall have been installed prior to [such submitting the] notification [form]. The electric distribution company shall have 30 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have been met. The date of notification shall be considered to be the third day following the mailing of such the notification form by the [prospective] ~~net metering~~ customer.

2. For a renewable fuel generator ~~[The A prospective] customer proposing to install an electrical generating facility~~ with an alternating current capacity greater than 25 kilowatts, ~~shall submit~~ the notification form ~~shall be submitted~~ at least 60 days prior to the date the [prospective] customer intends to interconnect ~~his renewable fuel generator the [facility's generator or generators generating facility]~~ to the electric [distribution] company's distribution facilities. ~~Such net metering [The customer shall have contacted the electric distribution company prior to making financial commitments and shall have installed all~~ All] equipment necessary to complete the grid interconnection ~~installed of the [facility's generator or generators generating facility shall have been installed]~~ prior to ~~such submitting the notification form. [The prospective customer should contact its electric distribution company prior to making financial commitments.]~~ Such net metering customer should contact his electric distribution company prior to making financial commitments. The electric distribution company shall have 60 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have been met. The date of notification shall be considered to be the third day following the mailing of such the notification form by the [prospective] ~~net metering~~ customer.

B. Thirty-one days after the date of notification for renewable fuel generators ~~[an electrical]~~ a generating facility

with ~~a rated~~ an alternating current capacity of 25 kilowatts or less, and 61 days after the date of notification for ~~renewable fuel generators a [generating] facility~~ with an alternating current capacity greater than 25 kilowatts, ~~a net metering the [prospective] customer may interconnect his renewable fuel generator and begin operation of said renewable fuel generator and begin operation of the [generating] facility~~ unless the electric distribution company or the energy service provider requests a waiver of this requirement under the provisions of 20VAC5-315-80 prior to ~~said the~~ the 31st or 61st day, respectively. In cases where the electric distribution company or energy service provider requests a waiver, a copy of the request for waiver must be mailed simultaneously by the requesting party to the ~~net metering [prospective] customer~~ and to the commission's Division of Energy Regulation.

C. The electric distribution company shall file with the commission's Division of Energy Regulation a copy of each completed notification form within 30 days of final interconnection.

20VAC5-315-40. Conditions of interconnection.

A. A prospective [~~net metering~~] customer [~~or prospective agricultural net metering customer~~] may begin operation of ~~his renewable fuel generator the [electrical] generating facility~~ on an interconnected basis when:

1. The ~~net metering~~ customer has properly notified both the electric distribution company and energy service provider (in accordance with 20VAC5-315-30) of [~~his the~~ customer's] intent to interconnect.

2. If required by the electric distribution company's ~~net metering~~ tariff, the ~~net metering~~ customer has installed a lockable, electric distribution company accessible, load breaking manual disconnect switch at each of the facility's generators.

3. [~~A~~ In cases where a licensed electrician installs the customer's generator or generators, the] licensed electrician has certified, by signing the commission-approved notification form, that any required manual disconnect switch ~~has~~ or switches have been installed properly and that the ~~renewable fuel generator has or generators have been installed~~ in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code. [~~If the customer or licensed Virginia Class A or B general contractor installs the customer's generator or generators, the signed final electrical inspection can be used in lieu of the licensed electrician's certification.~~]

4. The vendor has certified, by signing the commission-approved notification form, that the ~~renewable fuel generator or generators~~ being installed ~~is~~ are in compliance with the requirements established by Underwriters Laboratories or other national testing laboratories in accordance with IEEE Standard 1547, Standard for

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Interconnecting Distributed Resources with Electric Power Systems, July 2003.

5. In the case of static inverter-connected ~~renewable fuel~~ generators with an alternating current capacity in excess of 10 kilowatts, the ~~net metering~~ customer has had the inverter settings inspected by the electric distribution company. The ~~inspecting~~ electric distribution company may impose a fee on the ~~net metering~~ customer of no more than \$50 for ~~such inspection~~ each generator that requires this inspection.

6. In the case of nonstatic inverter-connected ~~renewable fuel~~ generators, the ~~net metering~~ customer has interconnected according to the electric distribution company's interconnection guidelines and the electric distribution company has inspected all protective equipment settings. The ~~inspecting~~ electric distribution company may impose a fee on the ~~net metering~~ customer of no more than \$50 for ~~such~~ each generator that requires this inspection.

7. In the case of ~~renewable fuel generators with a customer's electrical generating facility having~~ an alternating current capacity greater than 25 kilowatts, the following requirements shall be met before interconnection may occur:

a. Electric distribution facilities and customer impact limitations. A ~~renewable fuel customer's~~ generator shall not be permitted to interconnect to distribution facilities if the interconnection would reasonably lead to damage to any of the electric distribution company's facilities or would reasonably lead to voltage regulation or power quality problems at other customer revenue meters due to the incremental effect of the generator on the performance of the electric distribution system, unless the customer reimburses the electric distribution company for its cost to modify any facilities needed to accommodate the interconnection.

b. Secondary, service, and service entrance limitations. The capacity of the ~~renewable fuel generator~~ generators at any one service location shall be less than the capacity of the electric distribution company-owned secondary, service, and service entrance cable connected to the point of interconnection, unless the customer reimburses the electric distribution company for its cost to modify any facilities needed to accommodate the interconnection.

c. Transformer loading limitations. ~~The renewable fuel~~ A customer's generator shall not have the ability to overload the electric distribution [~~company~~ company's] transformer, or any transformer winding, beyond manufacturer or nameplate ratings, unless the customer reimburses the electric distribution company for its cost to modify any facilities needed to accommodate the interconnection.

d. Integration with electric distribution company facilities grounding. The grounding scheme of ~~the renewable fuel~~

each generator shall comply with IEEE 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, and shall be consistent with the grounding scheme used by the electric distribution company. If requested by a prospective [~~net metering~~] customer, the electric distribution company shall assist the prospective [~~net metering~~] customer in selecting a grounding scheme that coordinates with its distribution system.

e. Balance limitation. The ~~renewable fuel~~ generator or generators shall not create a voltage imbalance of more than 3.0% at any other customer's revenue meter if the electric distribution company transformer, with the secondary connected to the point of interconnection, is a three-phase transformer, unless the customer reimburses the electric distribution company for its cost to modify any facilities needed to accommodate the interconnection.

B. A prospective ~~net metering~~ customer shall not be allowed to interconnect a ~~renewable fuel~~ generator if doing so will cause the total rated generating alternating current capacity of all interconnected ~~renewable fuel~~ net metered generators [, as defined in 20VAC5-315-20,] within that customer's electric distribution company's Virginia service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year. In any case where a prospective ~~net metering~~ customer has submitted a notification form required by 20VAC5-315-30 and that customer's interconnection would cause the total rated generating alternating current capacity of all interconnected ~~renewable fuel~~ net metered generators [, as defined in 20VAC5-315-20,] within that electric distribution company's service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year, the electric distribution company shall, at the time it becomes aware of the fact, send written notification to ~~such~~ the prospective ~~net metering~~ customer and to the commission's Division of Energy Regulation that the interconnection is not allowed. In addition, upon request from any customer, the electric distribution company shall provide to the customer the amount of capacity still available for interconnection pursuant to § 56-594 D of the Code of Virginia.

C. Neither the electric distribution company nor the energy service provider shall impose any charges upon a ~~net metering~~ customer for any interconnection requirements specified by this chapter, except as provided under subdivisions A 5 [and,] 6 [, and 7] of this section, and 20VAC5-315-50 as related to additional metering.

D. ~~The net energy metering~~ A customer shall immediately notify the electric distribution company of any changes in the ownership of, operational responsibility for, or contact information for any of the generator customer's generators.

20VAC5-315-50. Metering, billing, payment and contract or tariff considerations.

Net metered energy shall be measured in accordance with standard metering practices by metering equipment capable of measuring (but not necessarily displaying) power flow in both directions. Each contract or tariff governing the relationship between a ~~net-metering~~ customer, electric distribution company or energy service provider shall be identical, with respect to the rate structure, all retail rate components, and monthly charges, to the contract or tariff under which the same customer would be served if such customer ~~was~~ were not a [an agricultural net metering customer or a] net metering [customer] with the exceptions that a residential ~~customer-generator net metering customer or an agricultural net metering customer~~ whose generating facility has a capacity that exceeds 10 kilowatts shall pay any applicable tariffed monthly standby charges to ~~his~~ the supplier, and that time-of-use metering under an electricity supply service tariff having no demand charges is not permitted. Said contract or tariff shall be applicable to both the electric energy supplied to, and consumed from, the grid by that customer.

In instances where a ~~net-metering~~ customer's metering equipment is of a type for which meter readings are made off site and where this equipment has, or will be, installed for the convenience of the electric distribution company, the electric distribution company shall provide the necessary additional metering equipment to enable net metering service at no charge to the ~~net-metering~~ customer. In instances where a ~~net-metering~~ customer has requested, and where the electric distribution company would not have otherwise installed, metering equipment that is intended to be read off site, the electric distribution company may charge the ~~net-metering~~ customer its actual cost of installing any additional equipment necessary to implement net metering service. A time-of-use ~~net-metering~~ customer shall bear the incremental metering costs associated with net metering. Any incremental metering costs associated with measuring the ~~total~~ output of the ~~renewable fuel~~ any generator or generators for the purposes of receiving renewable energy certificates shall be installed at the customer's expense unless otherwise negotiated between the customer and the REC purchaser. Agricultural net metering customers may be responsible for the cost of additional metering equipment necessary to accomplish [virtual account] aggregation.

~~A net-metering~~ The customer shall receive no compensation for excess generation unless the ~~net-metering~~ customer has entered into a power purchase agreement with its supplier.

Upon the written request of the ~~net-metering~~ customer, the customer's supplier shall enter into a power purchase agreement for the excess generation for one or more net metering periods, as requested by the ~~net-metering~~ customer. The written request of the ~~net-metering~~ customer shall be submitted prior to the beginning of the first net metering period covered by the power purchase agreement. The power

purchase agreement shall be consistent with this chapter. If the customer's supplier is an investor-owned electric distribution company, the supplier shall be obligated by the power purchase agreement to purchase the excess generation for the requested net metering periods at a price equal to the PJM Interconnection, L.L.C. (PJM) zonal day-ahead annual, simple average LMP (locational marginal price) for the PJM load zone in which the electric distribution company's Virginia retail service territory resides (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before the end of each net metering period, unless the electric distribution company and the ~~net-metering~~ customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology. If the Virginia retail service territory of the investor-owned electric distribution company does not reside within a PJM load zone, the power purchase agreement shall obligate the electric distribution company to purchase excess generation for the requested net metering periods at a price equal to the systemwide PJM day-ahead annual, simple average LMP (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before the end of each net metering period, unless the electric distribution company and the ~~net-metering~~ customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

If the customer's supplier is a member-owned electric cooperative, the supplier shall be obligated by the power purchase agreement to purchase excess generation for the requested net metering periods at a price equal to the simple average (by tiers for time-of-use customers) of the electric cooperative's hourly avoidable cost of energy, including fuel, based on the energy and energy-related charges of its primary wholesale power supplier for the net metering period, unless the electric distribution company and the ~~net-metering~~ customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

If the customer's supplier is a competitive supplier, the supplier shall be obligated by the power purchase agreement to purchase the excess generation for the requested net metering periods at a price equal to the systemwide PJM day-ahead annual, simple average LMP (simple average of hourly LMPs, by tiers, for time-of-use customers), as published by the PJM Market Monitoring Unit, for the most recent calendar year ending on or before the end of each net metering period, unless the supplier and the ~~net-metering~~ customer mutually agree to a higher price or unless, after notice and opportunity for hearing, the commission establishes a different price or pricing methodology.

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The customer's supplier shall make full payment annually to the ~~net metering~~ customer within 30 days following the latter of the end of the net metering period or, if applicable, the date of the PJM Market Monitoring Unit's publication of the previous calendar-year's applicable zonal or systemwide PJM day-ahead annual, simple average LMP, or hourly LMP, as appropriate. The supplier may offer the ~~net metering~~ customer the choice of an account credit in lieu of a direct payment. The option of a ~~net metering~~ customer to request payment from its supplier for excess generation and the price or pricing formula shall be clearly delineated in the net metering tariff of the electric distribution company or timely provided by the customer's competitive supplier, as applicable. A copy of such tariff, or an Internet link to such tariff, at the option of the customer, shall be provided to each [prospective] customer requesting interconnection of [a] ~~renewable fuel generator~~ [~~an electrical~~] generating facility. A competitive supplier shall provide in its contract with the ~~net metering~~ customer the price or pricing formula for excess generation.

For a nontime-of-use ~~net metering~~ customer, in any billing period in which there is a billing period credit, the customer shall be required to pay only the nonusage sensitive charges, including any applicable standby charges, for that billing period. For a time-of-use ~~net metering~~ customer, in any billing period for which there are billing period credits in all tiers, the customer shall be required to pay only the demand charge or charges, nonusage sensitive charges, and any applicable standby charges, for that billing period. Any billing period credits shall be accumulated, carried forward, and applied at the first opportunity to any billing periods having positive net consumptions (by tiers, in the case of time-of-use customers). However, any accumulated billing period credits remaining unused at the end of a net metering period shall be carried forward into the next net metering period only to the extent that such accumulated billing period credits carried forward do not exceed the ~~net metering~~ customer's billed consumption for the current net metering period, adjusted to exclude accumulated billing period credits carried forward and applied from the previous net metering period (recognizing tiers for time-of-use customers).

A ~~net metering~~ customer owns any renewable energy certificates associated with the total output of its ~~renewable fuel generator~~ [electrical] generating facility. A supplier is only obligated to purchase a ~~net metering~~ customer's RECs if the ~~net metering~~ customer has exercised its one-time option at the time of signing a power purchase agreement with its supplier to include a provision requiring the purchase by the supplier of all generated RECs over the duration of the power purchase agreement.

Payment for all whole RECs purchased by the supplier during a net metering period in accordance with the ~~purchase~~ power purchase agreement shall be made at the same time as the payment for any excess generation. The supplier will post a credit to the customer's account, or the customer may elect a direct payment. Any fractional REC remaining shall not

receive immediate payment, but may be carried forward to subsequent net metering periods for the duration of the power purchase agreement.

The rate of the payment by the supplier for a customer's RECs shall be the daily unweighted average of the "CR" component of Virginia Electric and Power Company's Virginia jurisdiction Rider G tariff in effect over the period for which the rate of payment for the excess generation is determined, unless the customer's supplier is not Virginia Electric and Power Company, and that supplier has an applicable Virginia retail renewable energy tariff containing a comparable REC commodity price component, in which case that price component shall be the basis of the rate of payment. The commission may, with notice and opportunity for hearing, set another rate of payment or methodology for setting the rate of payment for RECs.

To the extent that RECs are not sold to the ~~net metering~~ customer's supplier, they may be sold to any willing buyer at any time at a mutually agreeable price.

20VAC5-315-60. Liability insurance.

A ~~net metering~~ customer ~~with a renewable fuel generator operating [an electrical a] generating facility with a rated an alternating current capacity not exceeding 10 kilowatts~~ shall maintain homeowners, commercial, or other insurance providing coverage in the amount of at least \$100,000 for the liability of the insured against loss arising out of the ~~use operation of a renewable fuel generator~~ the facility, and for a ~~renewable fuel generator~~ [generating] facility with a rated an alternating current capacity exceeding 10 kilowatts such coverage shall be in the amount of at least \$300,000. ~~Net metering customers~~ Customers shall not be required to obtain liability insurance with limits higher than that which is stated in this section; nor shall such customers be required to purchase additional liability insurance where the customer's existing insurance policy provides coverage against loss arising out of the ~~use operation of a renewable fuel generator~~ an electrical generating facility by virtue of not explicitly excluding coverage for such loss.

20VAC5-315-70. Additional controls and tests.

Except as provided in 20VAC5-315-40 A 5 and 6 and 20VAC5-315-50 as related to additional metering, no ~~net metering~~ customer shall be required to pay for additional metering, testing or controls in order to interconnect with the electric distribution company or energy service provider. However, this chapter shall not preclude a ~~net metering~~ customer, an electric distribution company or an energy service provider from installing additional controls or meters, or from conducting additional tests. The expenses associated with these additional meters, tests or equipment shall be borne by the party desiring the additional meters, tests or equipment.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form, which has a hyperlink, to access it. The form is 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 (20VAC5-315)

~~Net Metering Interconnection Notification, Form NMIN (eff. 9/06).~~

[Net Metering Interconnection Notification, Form NMIN \(rev. 7/14\)](#)

V.A.R. Doc. No. R14-3950; Filed June 23, 2014, 2:31 p.m.



TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **22VAC40-41. Neighborhood Assistance Tax Credit Program (amending 22VAC40-41-20).**

Statutory Authority: §§ 58.1-439.20 and 63.2-217 of the Code of Virginia.

Effective Date: August 15, 2014.

Agency Contact: Wanda Stevenson, Neighborhood Assistance Program Technician, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7924, or email wanda.stevenson@dss.virginia.gov.

Summary:

The amendment conforms the regulation to Chapter 416 of the 2014 Acts of Assembly by increasing to 50% the percentage of low-income persons that must be served by a neighborhood organization for the organization to be eligible for participation in the Neighborhood Assistance Program.

22VAC40-41-20. Purpose; procedure for becoming an approved organization; eligibility criteria; termination of approved organization; appeal procedure.

A. The purpose of the Neighborhood Assistance Program is to encourage business firms and individuals to make donations to neighborhood organizations for the benefit of low-income persons.

B. Neighborhood organizations that do not provide education services and that wish to become an approved organization must submit an application to the commissioner. Neighborhood organizations that provide education services must submit an application to the Superintendent of Public Instruction. The application submitted to the Superintendent of Public Instruction must comply with regulations or guidelines adopted by the Board of Education. The application submitted to the commissioner must contain the following information:

1. A description of eligibility as a neighborhood organization, the programs being conducted, the low-income persons assisted, the estimated amount that will be donated to the programs, and plans for implementing the programs.
2. Proof of the neighborhood organization's current exemption from income taxation under the provisions of § 501(c)(3) or § 501(c)(4) of the Internal Revenue Code, or the organization's eligibility as a community action agency as defined in the Economic Opportunity Act of 1964 (42 USC § 2701 et seq.) or housing authority as defined in § 36-3 of the Code of Virginia.
3. For neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended, an audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended, a compilation for such year performed by an independent certified public accountant; a copy of the organization's current federal form 990; a current brochure describing the organization's programs; and a copy of the annual report filed with the Department of Agriculture and Consumer Services' Division of Consumer Protection.
4. A statement of objective and measurable outcomes that are expected to occur and the method the organization will use to evaluate the program's effectiveness.

C. To be eligible for participation in the Neighborhood Assistance Program, the applicant and any of its affiliates must meet the following criteria:

1. Applicants must have been in operation as a viable entity, providing neighborhood assistance for low-income people, for at least 12 months.
2. Applicants must be able to demonstrate that at least ~~40%~~ 50% of the total people served and at least 50% of the total

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expenditures were for low-income persons or eligible students with disabilities.

3. Applicant's audit must not contain any significant findings or areas of concern for the ongoing operation of the neighborhood organization.

4. Applicants must demonstrate that at least 75% of total revenue received is expended to support their ongoing programs each year.

D. The application period will start no later than March 15 of each year. All applications must be received by the Department of Social Services no later than the first business day of May. An application filed without the required audit, review, or compilation will be considered timely filed provided that the audit, review, or compilation is filed within 30 days immediately following the deadline.

E. Those applicants submitting all required information and reports and meeting the eligibility criteria described in this section will be determined an approved organization. The program year will run from July 1 through June 30 of the following year.

F. The commissioner may terminate an approved organization's eligibility based on a finding of program abuse involving illegal activities or fraudulent reporting on contributions.

G. Any neighborhood organization that disagrees with the disposition of its application, or its termination as an approved organization, may appeal to the commissioner in writing for a reconsideration. Such requests must be made within 30 days of the denial or termination. The commissioner will act on the request and render a final decision within 30 days of the request for reconsideration.

VA.R. Doc. No. R14-4049; Filed June 19, 2014, 11:03 a.m.

Emergency Regulation

Title of Regulation: 22VAC40-201. **Permanency Services - Prevention, Foster Care, Adoption and Independent Living (amending 22VAC40-201-10; adding 22VAC40-201-115).**

Statutory Authority: §§ 63.2-217, 63.2-900, and 63.2-915 of the Code of Virginia.

Effective Dates: June 25, 2014, through December 24, 2015.

Agency Contact: Phyl Parrish, Department of Social Services, Division of Family Services, 801 East Main Street, Richmond, VA 23219-2901, telephone (804) 726-7926, FAX (804) 726-7895, TTY (800) 828-1849, or email phyl.parrish@dss.virginia.gov.

Preamble:

The federal Administration for Children and Families, Children's Bureau, determined that in order to continue to receive federal Title IV-E funding for its foster care program, Virginia must establish a fair hearings process for individuals eligible for benefits under that program. Chapter 437 of the 2013 Acts of Assembly, which pertains

to appeals to the Commissioner of Social Services, requires the State Board of Social Services to promulgate regulations to implement the requirements of the act and requires that the regulations be effective within 280 days of enactment. Section 2.2-4011 of the Code of Virginia states that agencies may adopt emergency regulations in situations in which 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, and the regulation is not exempt under the provisions of subdivision A 4 of § 2.2-4006.

This regulatory action establishes a hearing process for individuals who may receive a payment or service that is provided under § 63.2-905 of the Code of Virginia and provides that those individuals may appeal to the Commissioner of Social Services when they believe a benefit has been denied or unreasonably delayed. The key provisions of the regulation address (i) who has a right to appeal to the commissioner, (ii) what decisions or benefits may not be appealed, (iii) who is notified of the right to an appeal and what is included in the notice, (iv) the ability of the commissioner to delegate the duty and authority to duly qualified officers, (v) information about the decision, and (vi) the appellant's right to judicial review.

22VAC40-201-10. Definitions.

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

"Administrative panel review" means a review of a child in foster care that the local board conducts on a planned basis, and that is open to the participation of the birth parents or prior custodians and other individuals significant to the child and family, to evaluate the current status and effectiveness of the objectives in the service plan and the services being provided for the immediate care of the child and the plan to achieve a permanent home for the child.

"Adoption" means a legal process that entitles the person being adopted to all of the rights and privileges, and subjects the person to all of the obligations of a birth child.

"Adoption assistance" means a money payment or services provided to adoptive parents on behalf of a child with special needs.

"Adoption assistance agreement" means a written agreement between the child-placing agency and the adoptive parents of a child with special needs to provide for the unmet financial and service needs of the child.

"Adoption Manual" means Volume VII, Section III, Chapter C - Adoption/Agency Placement of the Service Program Manual of the Virginia Department of Social Services dated October 2009/March 2010.

"Adoption Progress Report" means a report filed with the juvenile court on the progress being made to place the child in an adoptive home. Section 16.1-283 of the Code of Virginia

requires that an Adoption Progress Report be submitted to the juvenile court every six months following termination of parental rights until the adoption is final.

"Adoption search" means interviews and written or telephone inquiries made by a local department to locate and advise the biological parents or siblings of an adult adoptee's request, by Application for Disclosure or petition to the court, for identifying information from a closed adoption record.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive home study" means an assessment of a family completed by a child-placing agency to determine the family's suitability for adoption. The adoptive home study is included in the dual approval process.

"Adoptive parent" means any provider selected and approved by a parent or a child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult adoption" means the adoption of any person 18 years of age or older, carried out in accordance with § 63.2-1243 of the Code of Virginia.

"Agency placement adoption" means an adoption in which a child is placed in an adoptive home by a child-placing agency that has custody of the child.

"AREVA" means the Adoption Resource Exchange of Virginia that maintains a registry and photo-listing of children waiting for adoption and families seeking to adopt.

"Assessment" means an evaluation of the situation of the child and family to identify strengths and services needed.

"Birth family" means the child's biological family.

"Birth parent" means the child's biological parent and for purposes of adoptive placement means a parent by previous adoption.

"Birth sibling" means the child's biological sibling.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child-placing agency" means any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child with special needs" as it relates to adoption assistance means a child who meets the definition of a child with special

needs set forth in §§ 63.2-1300 and 63.2-1301 B of the Code of Virginia.

"Claim for benefits" as used in § 63.2-915 of the Code of Virginia and 22VAC40-201-115 means (i) foster care maintenance, including enhanced maintenance; (ii) the services set forth in a court approved foster care service plan, the foster care services identified in an individual family service plan developed by a family assessment and planning team or other multi-disciplinary team pursuant to the Comprehensive Services Act (§ 2.2-5200 of the Code of Virginia et seq.), or a transitional living plan for independent living services; (iii) the placement of a child through an agreement with the child's parents or guardians, where legal custody remains with the parents or guardians; (iv) foster care prevention services as set out in a prevention service plan; or (v) placement of a child for adoption when an approved family is outside the locality with the legal custody of the child, in accordance with 42 USC § 671(a)(23).

"Close relative" means a grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt.

"Commissioner" means the commissioner of the department, his designee, or his authorized representative.

"Community Policy and Management Team (CPMT)" means a team appointed by the local governing body to receive funds pursuant to Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 of the Code of Virginia. The powers and duties of the CPMT are set out in § 2.2-5206 of the Code of Virginia.

"Comprehensive Services Act for At-Risk Youth and Families (CSA)" means a collaborative system of services and funding that is child centered, family focused, and community based when addressing the strengths and needs of troubled and at-risk youth and their families in the Commonwealth.

"Concurrent permanency planning" means a sequential, structured approach to case management which requires working towards a permanency goal (usually reunification) while at the same time establishing and working towards an alternative permanency plan.

"Custody investigation" means a method to gather information related to the parents and a child whose custody, visitation, or support is in controversy or requires determination.

"Department" means the State Department of Social Services.

"Denied" as used in § 63.2-915 of the Code of Virginia and 22VAC40-201-115 means the refusal to provide a claim for benefits.

"Dual approval process" means a process that includes a home study, mutual selection, interviews, training, and background checks to be completed on all applicants being considered for approval as a resource, foster or adoptive family home provider.

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"Family Assessment and Planning Team (FAPT)" means the local team created by the CPMT (i) to assess the strengths and needs of troubled youths and families who are approved for referral to the team and (ii) to identify and determine the complement of services required to meet their unique needs. The powers and duties of the FAPT are set out in § 2.2-5208 of the Code of Virginia.

"Foster care" means 24-hour substitute care for children placed away from their parents or guardians and for whom the local board has placement and care responsibility. Foster care also includes children under the placement and care of the local board who have not been removed from their home.

"Foster care maintenance payments" means payments to cover federally allowable expenses made on behalf of a child in foster care including the cost of food, clothing, shelter, daily supervision, reasonable travel for the child to visit relatives and to remain in his previous school placement, and other allowable expenses in accordance with guidance developed by the department.

"Foster Care Manual" means Chapter E - Foster Care of the Child and Family Services Manual of the Virginia Department of Social Services dated July 2011.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the CPMT where legal custody remains with the parents or guardians, or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster care prevention" means the provision of services to a child and family to prevent the need for foster care placement.

"Foster care services" means the provision of a full range of prevention, placement, treatment, and community services, including but not limited to independent living services, for a planned period of time as set forth in § 63.2-905 of the Code of Virginia.

"Foster child" means a child for whom the local board has assumed placement and care responsibilities through a noncustodial foster care agreement, entrustment, or court commitment before 18 years of age.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"Foster parent" means an approved provider who gives 24-hour substitute family care, room and board, and services for children or youth committed or entrusted to a child-placing agency.

"Independent living arrangement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. Independent living services may also mean services and activities provided to a person who was in foster care on his 18th birthday and has not yet reached the age of 21 years. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Individual Family Service Plan (IFSP)" means the plan for services developed by the FAPT in accordance with § 2.2-5208 of the Code of Virginia.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate Compact on the Placement of Children (ICPC)" means a uniform law that has been enacted by all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands which establishes orderly procedures for the interstate placement of children and sets responsibility for those involved in placing those children.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement, or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Investigation" means the process by which the local department obtains information required by § 63.2-1208 of the Code of Virginia about the placement and the suitability of the adoption. The findings of the investigation are compiled into a written report for the circuit court containing a recommendation on the action to be taken by the court.

"Local department" means the local department of social services of any county or city in the Commonwealth.

"Nonagency placement adoption" means an adoption in which the child is not in the custody of a child-placing agency and is placed in the adoptive home directly by the birth parent or legal guardian.

"Noncustodial foster care agreement" means an agreement that the local department enters into with the parent or guardian of a child to place the child in foster care when the parent or guardian retains custody of the child. The agreement specifies the conditions for placement and care of the child.

"Nonrecurring expenses" means expenses of adoptive parents directly related to the adoption of a child with special

needs including, but not limited to, attorney or other fees directly related to the finalization of the adoption; transportation; court costs; and reasonable and necessary fees of licensed child-placing agencies.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Permanency" means establishing family connections and placement options for a child to provide a lifetime of commitment, continuity of care, a sense of belonging, and a legal and social status that go beyond a child's temporary foster care placements.

"Permanency planning" means a social work practice philosophy that promotes establishing a permanent living situation for every child with an adult with whom the child has a continuous, reciprocal relationship within a minimum amount of time after the child enters the foster care system.

"Permanency planning indicator (PPI)" means a tool used in concurrent permanency planning to assess the likelihood of reunification. This tool assists the worker in determining if a child should be placed with a resource family and if a concurrent goal should be established.

"Prior custodian" means the person who had custody of the child and with whom the child resided, other than the birth parent, before custody was transferred to or placement made with the child-placing agency when that person had custody of the child.

"Putative Father Registry" means a confidential database designed to protect the rights of a putative father who wants to be notified in the event of a proceeding related to termination of parental rights or adoption for a child he may have fathered.

"Residential placement" means a placement in a licensed publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their families. A residential placement includes children's residential facilities as defined in § 63.2-100 of the Code of Virginia.

"Resource parent" means a provider who has completed the dual approval process and has been approved as both a foster and adoptive family home provider.

"Reunification" means the return of the child to his home after removal for reasons of child abuse and neglect, abandonment, child in need of services, parental request for relief of custody, noncustodial agreement, entrustment, or any other court-ordered removal.

"Service plan" means a written document that describes the programs, care, services, and other support which will be offered to the child and his parents and other prior custodians pursuant to § 16.1-281 of the Code of Virginia,

"Service worker" means a worker responsible for case management or service coordination for prevention, foster care, or adoption cases.

"SSI" means Supplemental Security Income.

"State pool fund" means the pooled state and local funds administered by CSA and used to pay for services authorized by the CPMT.

"Step-parent adoption" means the adoption of a child by a spouse; or the adoption of a child by a former spouse of the birth or adoptive parent in accordance with § 63.2-1201.1 of the Code of Virginia.

"Title IV-E" means the title of the Social Security Act that authorizes federal funds for foster care and adoption assistance.

"Visitation and report" means the visitation conducted pursuant to § 63.2-1212 of the Code of Virginia subsequent to the entry of an interlocutory order of adoption and the written report compiling the findings of the visitation which is filed in the circuit court.

"Wrap around services" means an individually designed set of services and supports provided to a child and his family that includes treatment services, personal support services or any other supports necessary to achieve the desired outcome. Wrap around services are developed through a team approach.

"Youth" means any child in foster care between 16 and 18 years of age or any person 18 to 21 years of age transitioning out of foster care and receiving independent living services pursuant to § 63.2-905.1 of the Code of Virginia.

22VAC40-201-115. Foster care appeal process.

A. Any individual whose claim for benefits available pursuant to 42 USC § 670 et seq. or whose claim for benefits pursuant to § 63.2-905 of the Code of Virginia is denied or is not acted upon by the local department with reasonable promptness shall have a right to appeal to the commissioner.

B. A hearing need not be granted when either state or federal law requires automatic maintenance payment adjustments for classes of recipients unless the reason for an individual appeal is incorrect maintenance amount computation.

C. Decisions related to the placement of a child in foster care with a specific individual or family may not be appealed. Placement decisions of local boards are final when in accordance with the relevant provisions of Title 16.1 of the Code of Virginia. However, in accordance with 42 USC § 671(a)(23), a hearing shall be granted for the denial or delay in placement of a child for adoption when an approved family is outside the locality with the legal custody of the child.

D. The hearing shall be face-to-face or, at the option of the commissioner or his designee, a hearing by telephone may be held if the individual agrees. The individual shall be afforded all rights as specified in this section, whether the hearing is face-to-face or by telephone.

Regulations

E. The local department or, in those cases where the local department is not involved, the licensed child-placing agency, the family assessment and planning team, or other multi-disciplinary team shall inform an individual in writing of the right to appeal the denial of a benefit or the delay of a decision regarding a benefit under this section at the time the applicable plan is written and at the time of any action affecting claim for benefit. This shall include a written notice to the birth parents or caretaker at the time a child comes into foster care, a written notice to the guardian ad litem, and written notice to foster parents at the time the foster care agreement is signed. The notice shall include:

1. The right to a hearing;
2. The method by which the individual may obtain a hearing; and
3. That the individual may be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or he may represent himself.

F. The local department or, in those cases where the local department is not involved, the licensed child-placing agency, the family assessment and planning team, or other multi-disciplinary team shall provide timely notice of a decision to discontinue, terminate, suspend, or change a benefit for the child. Timely notice means the notice is mailed at least 10 days before the date the action becomes effective. If the individual requests a hearing within the timely notice period, the benefit shall not be suspended, reduced, discontinued, or terminated (but is subject to recovery if the action is sustained), until a decision is rendered after a hearing, unless:

1. A determination is made at the hearing that the sole issue is one of state or federal law or policy or a change in state or federal law and not one of incorrect benefit computation;
2. A change affecting the individual's benefit occurs while the hearing decision is pending and the individual fails to request a hearing after notice of the change; or
3. The individual specifically requests that he not receive continued benefits pending a hearing decision.

G. An individual shall be allowed to request a hearing for up to 30 days after the denial of a claim for benefit. Reasonable notice of the hearing shall be provided to the individual. Within 90 days of the request for a hearing, the hearing shall be conducted, a decision reached, and the individual notified of the decision.

H. The commissioner may provide that a hearing request made after the date of action, but during a period not in excess of 10 days following such date, shall result in reinstatement of the benefit to be continued until the hearing decision unless (i) the individual specifically requests that continued benefit not be paid pending the hearing decision or (ii) at the hearing it is determined that the sole issue is one of state or federal law or policy. In any case where action was taken without timely notice, if the individual requests a

hearing within 10 days of the mailing of the notice of the action and the commissioner determines that the action resulted from other than the application of state or federal law or policy or a change in state or federal law, the benefit shall be reinstated and continued until a decision is rendered after the hearing unless the individual specifically requests that he not receive continued benefits pending the hearing decision.

I. Pursuant to § 63.2-915 of the Code of Virginia, the commissioner may delegate the duty and authority to consider and make determinations on any appeal filed in accordance with this section to duly qualified officers.

J. The commissioner or designated hearing officer may deny or dismiss a request for a hearing where it has been withdrawn by the individual in writing or where it is abandoned. Abandonment may be deemed to have occurred if the individual without good cause therefor fails to appear by himself or by authorized representative at the hearing scheduled for such individual.

K. The hearing shall include consideration of the denial of a claim for benefits or the local department's failure to act with reasonable promptness on a request for a benefit for the individual.

L. The individual requesting the hearing or his representative shall have adequate opportunity to:

1. Examine information relied upon by the local department, licensed child-placing agency, family assessment and planning team, or other multi-disciplinary team in considering the request for a benefit to the extent that the information does not violate confidentiality requirements.
2. Bring witnesses;
3. Establish all pertinent facts and circumstances;
4. Advance any arguments without undue interference;
5. Question or refute testimony or evidence; and
6. Confront and cross-examine witnesses.

M. Decisions of the commissioner or designated hearing officer shall be based exclusively on evidence and other material introduced at the hearing. The transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all the papers and requests filed in the proceeding and the decision of the commissioner or hearing officer shall constitute the exclusive record and shall be available to the individual at a place accessible to him or his representative at a reasonable time.

N. Decisions by the commissioner or hearing officer shall consist of a memorandum decision summarizing the facts and identifying the regulations and policy supporting the decision.

O. The individual shall be notified of the decision in writing.

P. When the hearing decision is favorable to the individual, the local department, licensed child-placing agency, family assessment and planning team, or other multi-disciplinary

team shall promptly begin the process to provide the requested service or, in the case of foster care maintenance, make corrective payments retroactively to the date the incorrect action was taken, unless foster care maintenance payments were continued during the pendency of the hearing decision.

Q. The decision of the commissioner shall be binding and considered a final agency action for purposes of judicial review. The hearing decision shall be a memorandum decision summarizing the facts and identifying the statutes and regulations supporting the decision.

V.A.R. Doc. No. R14-3687; Filed June 25, 2014, 4:36 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Board of Social Services is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The State Board of Social Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22VAC40-661. Child Care Program (amending 22VAC40-661-40).

Statutory Authority: § 63.2-217 of the Code of Virginia; 45 CFR 98.11 and 45 CFR 98.42.

Effective Date: August 15, 2014.

Agency Contact: Mary Ward, Child Care Subsidy Program Manager, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7638, FAX (804) 726-7655, or email mary.ward@dss.virginia.gov.

Summary:

The amendment changes the methodology for determining the child care subsidy copayment for participating families to a sliding scale based on family size and income and clarifies the maximum income eligibility limits for

assistance. The change to a copayment sliding scale is necessary to comply with 45 CFR 98.42.

22VAC40-661-40. State income eligible scale and copayments.

A. State income eligible scale. The department establishes the scale for determining financial eligibility for the income eligible child care programs. Income eligibility is determined by measuring the family's income and size against the percentage of the federal poverty guidelines for their locality, not to exceed 85% of the state median income. Income to be counted in determining income eligibility includes all earned and unearned income received by the family except: Supplemental Security Income; TANF benefits; general relief; food stamp benefits; child support paid to another household; earnings of a child under the age of 18 years; garnished wages; earned income tax credit; lump sum child support payments; and scholarships, loans, or grants for education except any portion specified for child care.

Unless a local alternate scale is approved, the income eligibility scale established by the department must be used for the transitional, Head Start, and fee programs. Proposed alternate sliding scales must be approved by the department prior to submission to the local board of social services.

B. Copayments. Copayments are established by the department. All families receiving child care subsidy have a copayment responsibility of 10% of their countable monthly income or the copayment established by an approved local alternate scale ranging from 5.0% to 10% of the family's income, taking family size and income into account, except that families whose gross monthly income is at or below the federal poverty guidelines who are recipients of TANF, participants in the FSET program, or families in the Head Start program will have no copayment. The family's copayment will be calculated using the following chart:

Monthly Income Levels by Percent of Poverty and Household Size																				
Percent of Poverty	Number of Household Members																			Copayment Percentage
	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	
0 - 100%	\$0 \$1,293	\$0 \$1,628	\$0 \$1,963	\$0 \$2,298	\$0 \$2,633	\$0 \$2,968	\$0 \$3,303	\$0 \$3,638	\$0 \$3,973	\$0 \$4,308	\$0 \$4,643	\$0 \$4,978	\$0 \$5,313	\$0 \$5,648	\$0 \$5,983	\$0 \$6,318	\$0 \$6,653	\$0 \$6,988	\$0 \$7,323	5.0%
>100% - <=125%	\$1,294 \$1,616	\$1,629 \$2,035	\$1,964 \$2,454	\$2,299 \$2,872	\$2,634 \$3,291	\$2,969 \$3,710	\$3,304 \$4,129	\$3,639 \$4,547	\$3,974 \$4,966	\$4,309 \$5,385	\$4,644 \$5,804	\$4,979 \$6,222	\$5,314 \$6,641	\$5,649 \$7,060	\$5,984 \$7,479	\$6,319 \$7,897	\$6,654 \$8,316	\$6,989 \$8,735	\$7,324 \$9,154	6.0%
>125% - <=150%	\$1,617 \$1,939	\$2,036 \$2,442	\$2,455 \$2,944	\$2,873 \$3,447	\$3,292 \$3,949	\$3,711 \$4,452	\$4,130 \$4,954	\$4,548 \$5,457	\$4,967 \$5,959	\$5,386 \$6,462	\$5,805 \$6,964	\$6,223 \$7,467	\$6,642 \$7,969	\$7,061 \$8,472	\$7,480 \$8,974	\$7,898 \$9,477	\$8,317 \$9,979	\$8,736 \$10,482	\$9,155 \$10,984	7.0%
>150% - <=160%	\$1,940 \$2,068	\$2,443 \$2,604	\$2,945 \$3,140	\$3,448 \$3,676	\$3,950 \$4,212	\$4,453 \$4,748	\$4,955 \$5,284	\$5,458 \$5,820	\$5,960 \$6,356	\$6,463 \$6,892	\$6,965 \$7,428	\$7,468 \$7,964	\$7,970 \$8,500	\$8,473 \$9,036	\$8,975 \$9,572	\$9,478 \$10,108	\$9,980 \$10,644	\$10,483 \$10,914	\$10,985 \$11,106	8.0%
>160% - <=185%	\$2,069 \$2,392	\$2,605 \$3,011	\$3,141 \$3,631	\$3,677 \$4,251	\$4,213 \$4,871	\$4,749 \$5,490	\$5,285 \$6,110	\$5,821 \$6,730	\$6,357 \$7,350	\$6,893 \$7,969	\$7,429 \$8,589	\$7,965 \$9,209	\$8,501 \$9,829	\$9,037 \$10,149	\$9,573 \$10,340	\$10,109 \$10,531	\$10,645 \$10,723	\$10,914 \$10,914	\$11,106 \$11,106	9.0%
>185% - <=250%	\$2,393 \$3,232	\$3,012 \$4,069	\$3,632 \$4,907	\$4,252 \$5,744	\$4,872 \$6,582	\$5,491 \$7,419	\$6,111 \$8,257	\$6,731 \$9,000	\$7,351 \$9,191	\$7,970 \$9,383	\$8,590 \$9,574	\$9,210 \$9,766	\$9,830 \$9,957	\$10,149 \$10,149	\$10,340 \$10,340	\$10,531 \$10,531	\$10,723 \$10,723	\$10,914 \$10,914	\$11,106 \$11,106	10%

Regulations

100% of Poverty- FFY 2014	\$1,293	\$1,628	\$1,963	\$2,298	\$2,633	\$2,968	\$3,303	\$3,638	\$3,973	\$4,308	\$4,643	\$4,978	\$5,313	\$5,648	\$5,983	\$6,318	\$6,653	\$6,988	\$7,323
85% of SMI Published on 05/15/13	\$4,340	\$5,361	\$6,383	\$7,404	\$8,425	\$8,617	\$8,808	\$9,000	\$9,191	\$9,383	\$9,574	\$9,766	\$9,957	\$10,149	\$10,340	\$10,531	\$10,723	\$10,914	\$11,106

¹Income level not to exceed 85% of state median income or 250% of poverty.

Note: Virginia state median income posted in the Federal Register, Vol. 78, No. 94, Wednesday, May 15, 2013, pages 28597-28599.

Note: FY 2014 Poverty Guidelines - Federal Register, Vol.78, No. 16, Thursday, January 24, 2013, pages 5182-5183. For a household greater than 8, add \$4,020 for each additional person.

C. Five-year limit. Localities may limit receipt of fee child care program subsidies to a maximum of 60 months (five years). Receipt of transitional child care does not count toward the five years.

D. Waiting list. Local departments must have a waiting list policy for the fee child care program. Prior receipt of TANF must not be a reason for preferential placement on a waiting list. Proposed policy for a waiting list must be approved by the department prior to submission to the local board of social services. A waiting list policy must assure that decisions are made uniformly.

VA.R. Doc. No. R14-4071; Filed June 19, 2014, 11:27 a.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Public Meeting and Public Comment for a Watershed Plan for Fairview Beach (Potomac River) in King George County

The Virginia Department of Environmental Quality (DEQ) will host a public meeting on the development of a Watershed Plan (WP) for impaired waters at Fairview Beach (Potomac River) on Wednesday, July 23, 2014.

The meeting will start at 6 p.m. at the L. E. Smoot Memorial Library (Meeting Room A) located at 9533 Kings Highway, King George, VA 22485. The purpose of the meeting is to present the final draft Watershed Plan to interested local community members and local government staff.

The use of this beach has been restricted due to excessive bacteria levels, resulting in beach closures at various times over the last nine years. The Virginia Department of Health has issued swimming advisories in order to protect the public from possible exposure to bacteria. A draft Watershed Plan has been developed by DEQ in order to identify measurable goals for restoring water quality. The draft WP also includes corrective actions needed and their associated costs, benefits, and environmental impacts. The Watershed Plan has been under development for the last five months and included a series of local meetings and input from local citizens and government agencies. A copy of the draft plan can be found at the link below the day after the public meeting.

Please see the link below for information presented during the first public meeting and working group meetings:

<http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLImplementation/TMDLImplementationProgress.aspx>

The public comment period on materials presented at this meeting will extend from July 23, 2014, to August 25, 2014. For additional information or to submit comments, contact May Sligh, Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, by telephone (804) 450-3802, or by email may.sligh@deq.virginia.gov.

Total Maximum Daily Loads for Wolf Creek, Laurel Creek, and Dry Run in Bland, Giles, and Tazewell Counties

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of total maximum daily loads (TMDLs) for Wolf Creek, Laurel Creek, and Dry Run in Bland, Giles, and Tazewell Counties. These streams are listed on the 2012

§ 303(d) TMDL Priority List and Report as impaired due to violations of the state's water quality standards for bacteria.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) Priority List and Report.

The impaired segments include: 28.7 miles of Wolf Creek from the Little Creek confluence in Tazewell County downstream to the confluence with the New River in Giles County; 1.60 miles of Laurel Creek in Bland County extending from the confluence of Dry Fork downstream to the confluence with Wolf Creek; 5.0 miles of Dry Fork in Bland County extending from East River Mountain to the West Virginia state line downstream to North Gap, excluding the headwaters.

The first public meeting on the development of the TMDL to address the bacteria impairments for these segments will be held on July 29, 2014, from 6 p.m. to 8 p.m. at the Rocky Gap United Methodist Church Fellowship Hall located at 12508 North Scenic Highway, Rocky Gap, Virginia.

The public comment period will begin July 29, 2014, and end August 29, 2014. An advisory committee to assist in development of this TMDL will be established. Persons interested in assisting should notify the DEQ contact person listed below by the end of the comment period and provide their name, address, phone number, and email address and the organization being represented (if any). Notification of the composition of the panel will be sent to all applicants.

A component of a TMDL is the Waste Load Allocations (WLAs); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDL's associated WLAs. Information on the development of the TMDLs for these impairments is available upon request. Please note, all written comments should include name, address, and telephone number of the person submitting the comments. Questions, comments, or information requests should be addressed to:

Martha Chapman, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, telephone (276) 676-4800, or email martha.chapman@deq.virginia.gov.

Mary Dail, Department of Environmental Quality, Blue Ridge Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, or email mary.dail@deq.virginia.gov.

General Notices/Errata

DEPARTMENT OF FORENSIC SCIENCE

Approval of Marijuana Field Tests for Detection of Marijuana Plant Material

In accordance with the Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material (6VAC40-50) and under the authority of the Code of Virginia the following marijuana field tests for detection of marijuana plant material are approved field tests:

ARMOR HOLDINGS, INCORPORATED
13386 INTERNATIONAL PARKWAY
JACKSONVILLE, FLORIDA 32218-2383

NIK

Drug or Drug Type:

Marijuana

ODV INCORPORATED
13386 INTERNATIONAL PARKWAY
JACKSONVILLE, FLORIDA 32218-2383

ODV NarcoPouch

Drug or Drug Type:

Marijuana

SIRCHIE FINGERPRINT LABORATORIES
100 HUNTER PLACE
YOUNGSVILLE, NORTH CAROLINA 27596

NARK II

Drug or Drug Type:

Marijuana

JANT PHARMACAL CORPORATION
16255 VENTURA BOULEVARD, #505
ENCINO, CALIFORNIA 91436

Accutest iDenta

Drug or Drug Type:

Marijuana

LYNN PEAVEY COMPANY
10749 WEST 84th TERRACE
LENEXA, KANSAS 66214-3612

QuickCheck

Drug or Drug Type:

Marijuana

Manufacturer's Field Test:

Test E 6075 – Duquenois – Levine Reagent

Manufacturer's Field Test:

908 – Duquenois – Levine Reagent

Manufacturer's Field Test:

05 – Duquenois – Levine Reagent

Manufacturer's Field Test:

ACS3000 Marijuana/Hashish (Duquenois-Levine Reagent)

Manufacturer's Field Test:

Marijuana (Duquenois-Levine Reagent) – 10120

Approval of Field Tests for Detection of Drugs

In accordance with 6VAC40-30, the Regulations for the Approval of Field Tests for Detection of Drugs, and under the authority of the Code of Virginia, the following field tests for detection of drugs are approved field tests:

ODV INCORPORATED
13386 INTERNATIONAL PARKWAY
JACKSONVILLE, FLORIDA 32218-2383

ODV NarcoPouch

<u>Drug or Drug Type:</u>	<u>Manufacturer's Field Test:</u>
Heroin	902 – Marquis Reagent
Amphetamine	902 – Marquis Reagent
Methamphetamine	902 – Marquis Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	902 – Marquis Reagent
Cocaine Hydrochloride	904 or 904B – Cocaine HCl and Base Reagent
Cocaine Base	904 or 904B – Cocaine HCl and Base Reagent
Barbiturates	905 – Dille-Koppanyi Reagent
Lysergic Acid Diethylamide (LSD)	907 – Ehrlich's (Modified) Reagent
Marijuana	908 – Duquenois – Levine Reagent
Hashish Oil	908 – Duquenois – Levine Reagent
Marijuana	909 – K N Reagent
Hashish Oil	909 – K N Reagent
Phencyclidine (PCP)	914 – PCP Methaqualone Reagent
Heroin	922 – Opiates Reagent
Methamphetamine	923 – Methamphetamine/Ecstasy Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	923 – Methamphetamine/Ecstasy Reagent
Heroin	924 – Mecke's (Modified) Reagent
Diazepam	925 – Valium/Ketamine Reagent
Ketamine	925 – Valium/Ketamine Reagent
Ephedrine	927 – Ephedrine Reagent
gamma – Hydroxybutyrate (GHB)	928 – GHB Reagent

ODV NarcoTest

<u>Drug or Drug Type:</u>	<u>Manufacturer's Field Test:</u>
Heroin	7602 – Marquis Reagent
Amphetamine	7602 – Marquis Reagent
Methamphetamine	7602 – Marquis Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	7602 – Marquis Reagent
Barbiturates	7605 – Dille-Koppanyi Reagent
Lysergic Acid Diethylamide (LSD)	7607 – Ehrlich's (Modified) Reagent
Marijuana	7608 – Duquenois Reagent
Hashish Oil	7608 – Duquenois Reagent
Marijuana	7609 – K N Reagent
Hashish Oil	7609 – K N Reagent
Cocaine Hydrochloride	7613 – Scott (Modified) Reagent
Cocaine Base	7613 – Scott (Modified) Reagent
Phencyclidine (PCP)	7614 – PCP Methaqualone Reagent
Heroin	7622 – Opiates Reagent
Methamphetamine	7623– Methamphetamine/Ecstasy Reagent
3,4–Methylenedioxymethamphetamine (MDMA)	7623– Methamphetamine/Ecstasy Reagent
Heroin	7624 – Mecke's Reagent
Diazepam	7625 – Valium/Ketamine Reagent
Ketamine	7625 – Valium/Ketamine Reagent
Ephedrine	7627 – Chen's Reagent - Ephedrine

General Notices/Errata

gamma – Hydroxybutyrate (GHB)

7628 – GHB Reagent

SIRCHIE FINGERPRINT LABORATORIES
100 HUNTER PLACE
YOUNGSVILLE, NORTH CAROLINA 27596

NARK

Drug or Drug Type:

Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
Opium Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Meperidine (Demerol) (Pethidine)
Heroin
Morphine
Cocaine Hydrochloride
Cocaine Base
Procaine
Tetracaine
Barbiturates
Heroin
Morphine
Amphetamine
Methamphetamine
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Cocaine Base

Manufacturer's Field Test:

1 – Mayer's Reagent
2 – Marquis Reagent
3 – Nitric Acid
3 – Nitric Acid
4 – Cobalt Thiocyanate Reagent
5 – Dille-Koppanyi Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
7 – Ehrlich's Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
9 – NDB (Fast Blue B Salt) Reagent
13 – Cobalt Thiocyanate/Crack Test

NARK II

Drug or Drug Type:

Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Heroin
Barbiturates
Lysergic Acid Diethylamide (LSD)

Manufacturer's Field Test:

01 – Marquis Reagent
02 – Nitric Acid
02 – Nitric Acid
03 – Dille-Koppanyi Reagent
04 – Ehrlich's Reagent

Marijuana	05 – Duquenois – Levine Reagent
Hashish	05 – Duquenois – Levine Reagent
Hashish Oil	05 – Duquenois – Levine Reagent
Tetrahydrocannabinol (THC)	05 – Duquenois – Levine Reagent
Cocaine Hydrochloride	07 – Scott's (Modified) Reagent
Cocaine Base	07 – Scott's (Modified) Reagent
Phencyclidine (PCP)	09 – Phencyclidine Reagent
Opiates	10 – Opiates Reagent
Heroin	10 – Opiates Reagent
Morphine	10 – Opiates Reagent
Buprenorphine	10 – Special Opiates Reagent
Heroin	11 – Mecke's Reagent
3,4-Methylenedioxyamphetamine (MDMA)	11 – Mecke's Reagent
Pentazocine	12 – Talwin/Pentazocine Reagent
Ephedrine	13 – Ephedrine Reagent
Diazepam	14 – Valium Reagent
Methamphetamine	15 – Methamphetamine (Secondary Amines Reagent)
Narcotic Alkaloids	19 – Mayer's Reagent
Heroin	19 – Mayer's Reagent
Morphine	19 – Mayer's Reagent
Amphetamine	19 – Mayer's Reagent
Methamphetamine	19 – Mayer's Reagent
3,4-Methylenedioxypropylvalerone (MDPV)	24 – MDPV (Bath Salts) Reagent
Beta-keto-N-methyl-3,4-benzodioxolylbutanamine (other name: butylone)	24 – MDPV Synthetic Cathinones Reagent
3,4-methylenedioxyethylcathinone (other name: ethylone)	24 – MDPV Synthetic Cathinones Reagent
3,4-methylenedioxyethylcathinone (other name: methylone)	24 – MDPV Synthetic Cathinones Reagent
Naphthylpyrovalerone (other name: naphyrone)	24 – MDPV Synthetic Cathinones Reagent
Beta-keto-methylbenzodioxolylpentanamine (other name: pentylone)	24 – MDPV Synthetic Cathinones Reagent
4-Methylmethcathinone (Mephedrone)	25 – Mephedrone (Bath Salts) Reagent
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)	26 – A-PVP (Synthetic Stimulant) Reagent
4-Bromo-2,5-dimethoxyphenethylamine (other name: 2C-B)	29 - 2C Reagent
2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C)	29 – 2C Reagent
4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E)	29 – 2C Reagent
4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I)	29 – 2C Reagent
2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N)	29 – 2C Reagent
2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7)	29 – 2C Reagent
Psilocybin	30 – Psilocybin/Psilocin Reagent
Methamphetamine	31 – Liebermann Reagent
Morphine	31 – Liebermann Reagent

ARMOR HOLDINGS, INCORPORATED
 13386 INTERNATIONAL PARKWAY
 JACKSONVILLE, FLORIDA 32218-2383

NIK

Drug or Drug Type:

Heroin
 Amphetamine
 Methamphetamine
 3,4-Methylenedioxyamphetamine (MDMA)

Manufacturer's Field Test:

Test A 6071 – Marquis Reagent
 Test A 6071 – Marquis Reagent
 Test A 6071 – Marquis Reagent
 Test A 6071 – Marquis Reagent

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Morphine
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish Oil
Tetrahydrocannabinol
Cocaine Hydrochloride
Cocaine Base
Cocaine Hydrochloride
Cocaine Base
Phencyclidine (PCP)
Heroin
Heroin
gamma – Hydroxybutyrate (GHB)
Ephedrine
Pseudoephedrine
Diazepam
Methamphetamine
3,4–Methylenedioxymethamphetamine (MDMA)
Methadone

Test B 6072 – Nitric Acid Reagent
Test C 6073 – Dille-Koppanyi Reagent
Test D 6074 – LSD Reagent System
Test E 6075 – Duquenois – Levine Reagent
Test E 6075 – Duquenois – Levine Reagent
Test E 6075 – Duquenois – Levine Reagent
Test G 6077 – Scott (Modified) Reagent
Test G 6077 – Scott (Modified) Reagent
6500 or 6501 – Cocaine ID Swab
6500 or 6501 – Cocaine ID Swab
Test J 6079 – PCP Reagent System
Test K 6080 – Opiates Reagent
Test L 6081 – Brown Heroin Reagent System
Test O 6090 – GHB Reagent
Test Q 6085 – Ephedrine Reagent
Test Q 6085 – Ephedrine Reagent
Test R 6085 – Valium Reagent
Test U 6087 – Methamphetamine Reagent
Test U 6087 – Methamphetamine Reagent
Test W 6088 – Mandelin Reagent System

MISTRAL SECURITY INCORPORATED
7910 WOODMONT AVENUE SUITE 820
BETHESDA, MARYLAND 20814

Drug or Drug Type:

Heroin
Amphetamine
Methamphetamine
Marijuana
Hashish Oil
Methamphetamine
Heroin
Marijuana
Hashish Oil
Cocaine Hydrochloride
Cocaine Base
Marijuana
Phencyclidine
Amphetamine
Ketamine
Methamphetamine
Ephedrine
Heroin
Methadone
Buprenorphine
Opium
Phenobarbital
Marijuana
Phencyclidine
Cocaine Hydrochloride
Cocaine base
Buprenorphine
Cocaine Hydrochloride
Cocaine base
Ephedrine

Manufacturer's Field Test:

Detect 4 Drugs Aerosol
Meth 1 and 2 Aerosol
Herosol Aerosol
Cannabispray 1 and 2 Aerosol
Cannabispray 1 and 2 Aerosol
Coca-Test Aerosol
Coca-Test Aerosol
Pen Test – D4D
Pen Test – Barbitusol
Pen Test – Cannabis Test
Pen Test – Coca Test
Pen Test – Coca Test
Pen Test – Coca Test
Pen Test – C&H Test

Ketamine	Pen Test – C&H Test
Heroin	Pen Test – C&H Test
Lysergic Acid Diethylamide (LSD)	Pen Test – C&H Test
Methadone	Pen Test – C&H Test
Methamphetamine	Pen Test – C&H Test
Heroin	Pen Test – Herosol
Methadone	Pen Test – Herosol
Lysergic Acid Diethylamide	Pen Test – LSD Test
Methamphetamine	Pen Test – Meth/X Test
3,4-Methylenedioxyamphetamine (MDMA)	Pen Test – Meth/X Test
Morphine	Pen Test – Opiatest
Opium	Pen Test – Opiatest
Diazepam	Pen Test – BZO
Ephedrine	Pen Test – Ephedrine
Pseudoephedrine	Pen Test – Ephedrine
Amphetamine	101 PDT Marquis Reagent
Heroin	101 PDT Marquis Reagent
3,4-Methylenedioxyamphetamine (MDMA)	101 PDT Marquis Reagent
Phenobarbital	107 PDT Dille-Koppanyi Reagent
Lysergic Acid Diethylamide	110 PDT Modified Ehrlich Reagent
Marijuana	119 PDT KN Reagent
Cocaine Hydrochloride	122 PDT Modified Scott Reagent
Cocaine base	122 PDT Modified Scott Reagent
Methaqualone	143 PDT Methaqualone/PCP Reagent
Phencyclidine	143 PDT Methaqualone/PCP Reagent
Heroin	140 PDT Modified Mecke's Reagent
gamma-Hydroxybutyrate (GHB)	149 PDT GHB Reagent
Ephedrine	155 PDT Chen's Reagent
Diazepam	158 PDT Valium/Rohypnol Reagent
Flunitrazepam	158 PDT Valium/Rohypnol Reagent
Ketamine	161 PDT Morris Reagent
Methamphetamine	164 PDT Methamphetamine (MDMA/Ecstasy) Reagent
3,4-Methylenedioxyamphetamine (MDMA)	164 PDT Methamphetamine (MDMA/Ecstasy) Reagent
Psilocybin	167 PDT Psilocybin Reagent
3,4-Methylenedioxypropionerone (MDPV)	170 PDT Bath Salts: MDPV Reagent
4-methylmethcathinone (Mephedrone)	173 PDT Bath Salts: Mephedrone Reagent
Morphine	137 PDT Opiates Reagent

JANT PHARMACAL CORPORATION
 16255 VENTURA BOULEVARD, #505
 ENCINO, CALIFORNIA 91436

(Formerly available through:

MILLENNIUM SECURITY GROUP)

Accutest IDenta

Drug or Drug Type:

Marijuana
 Hashish Oil
 Heroin
 Cocaine Hydrochloride
 Cocaine Base
 3,4-Methylenedioxyamphetamine (MDMA)
 Methamphetamine

Manufacturer's Field Test:

ACS3000 Marijuana/Hashish (Duquenois-Levine Reagent)
 ACS3000 Marijuana/Hashish (Duquenois-Levine Reagent)
 Heroin Step 1 and Step 2
 Cocaine/Crack Step 1 and Step 2
 Cocaine/Crack Step 1 and Step 2
 MDMA Step 1 and Step 2
 Methamphetamine Step 1 and Step 2

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COZART PLC
92 MILTON PARK
ABINGDON, OXFORDSHIRE ENGLAND OX14 4RY

Drug or Drug Type:

Cocaine

LYNN PEAVEY COMPANY
10749 WEST 84TH TERRACE
LEXEXA, KANSAS 66214

QuickCheck

Drug or Drug Type:

Marijuana
Marijuana
Hashish Oil
Hashish Oil
Heroin
Heroin
Cocaine Hydrochloride
Cocaine Base
Methamphetamine
Methamphetamine
MDMA
MDMA

M.M.C. INTERNATIONAL B.V.
FRANKENTHALERSTRAAT 16-18
4816 KA BREDA
THE NETHERLANDS

Drug or Drug Type:

Heroin
Morphine
Amphetamine
Methamphetamine
Codeine
Marijuana
Hashish Oil
Cocaine Hydrochloride
Cocaine base
Heroin
Ketamine
Methadone
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Heroin
Ephedrine
Pseudoephedrine
Pentazocine
Buprenorphine
Gamma-Butyrolactone (GBL)
Gamma-Hydroxybutyric acid (GHB)
Oxycodone

Manufacturer's Field Test:

Cocaine Solid Field Test

Manufacturer's Field Test:

Marijuana (Duquenois-Levine Reagent) – 10120
Marijuana – 10121
Marijuana (Duquenois-Levine Reagent) – 10120
Marijuana – 10121
Marquis – 10123
Heroin - 10125
Cocaine – 10124
Cocaine – 10124
Meth/Ecstasy – 10122
Marquis – 10123
Meth/Ecstasy – 10122
Marquis - 10123

Manufacturer's Field Test:

Opiates/Amphetamine Test (Ampoule)
Cannabis Test (Ampoule)
Cannabis Test (Ampoule)
Cocaine/Crack Test (Ampoule)
Cocaine/Crack Test (Ampoule)
Heroin Test (Ampoule)
Ketamine Test (Ampoule)
Methadone Test (Ampoule)
Crystal Meth/XTC Test (Ampoule)
Crystal Meth/XTC Test (Ampoule)
M&H Test (Ampoule)
M&H Test (Ampoule)
Ephedrine HCL Test (Ampoule)
Ephedrine HCL Test (Ampoule)
Pentazocine Test (Ampoule)
Buprenorphine HCL Test (Ampoule)
GBL Test (Ampoule)
GHB Test (Ampoule)
Oxycodone Test (Ampoule)

Oxymetholone
Testosterone
Methandrostenolone
Phenylacetone
Lysergic Acid Diethylamide (LSD)
Phencyclidine (PCP)
Methaqualone
Amobarbital
Pentobarbital
Phenobarbital
Secobarbital
Propoxyphene
Diazepam
Cocaine Hydrochloride
Cocaine Base
Cocaine Hydrochloride
Cocaine Base
Morphine
Heroin
3,4-Methylenedioxymethamphetamine (MDMA)
Methamphetamine
Amphetamine

Steroids Test B (Ampoule)
Steroids Test B (Ampoule)
Steroids Test B (Ampoule)
PMK/BMK(BMK) Test (Ampoule)
LSD Test (Ampoule)
PCP Test (Ampoule)
Methaqualone Test (Ampoule)
Barbiturates Test (Ampoule)
Barbiturates Test (Ampoule)
Barbiturates Test (Ampoule)
Barbiturates Test (Ampoule)
Propoxyphene Test (Ampoule)
V&R Test (Ampoule)
Cocaine/Crack Test (Spray)
Cocaine/Crack Test (Spray)
Cocaine Trace Wipes
Cocaine Trace Wipes
Opiate Cassette
Opiate Cassette
MDMA/Ecstasy Cassette
Methamphetamine Cassette
Amphetamine Cassette

REDXDEFENSE
7642 STANDISH PLACE
ROCKVILLE, MARYLAND 20855

XCAT

Drug or Drug Type:

Cocaine Hydrochloride
Cocaine base
Phencyclidine
Heroin
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Butylone
Methedrone
Methylone
Mephedrone
N-Benzylpiperazine (N-BZP)
Mescaline
2C-I

Manufacturer's Field Test:

COC-210 Card
COC-210 Card
COC-210 Card
HER-110 Card
AMP-500 Card

**DEPARTMENT OF MEDICAL ASSISTANCE
SERVICES**

**Updated Notice to 2014 Medicaid Provider
Reimbursement Changes - Notice of Intent to
Amend the Virginia State Plan for Medical
Assistance (pursuant to § 1902(a)(13) of the Social
Security Act (USC § 1396a(a)(13)))**

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to

amend the Virginia State Plan for Medical Assistance to provide for changes to the Amount, Duration, and Scope of Medical and Remedial Care Services (12VAC30-50); Methods and Standards for Establishing Payment Rates - Inpatient Hospital Services (12VAC30-70); Methods and Standards for Establishing Payment Rates; Other Types of Care (12VAC30-80); and Methods and Standards for Establishing Payment Rates for Long-Term Care (12VAC30-90). The department published a notice on the Virginia Regulatory Town Hall on June 11, 2014, for publication in the Virginia Register June 30, 2014, regarding a number of

General Notices/Errata

changes in reimbursement methodology effective July 1, 2014, pursuant to Item 301 of the 2014 Budget Bill. Based on the final budget approved on June 21, 2014, the department is amending the June 11, 2014, notice to eliminate two of the actions described in the published notice. Citations are to state regulations that correspond to the State Plan. Estimated impact on providers in fiscal year 2015 compared to the impact in the earlier notice is included.

Reimbursement Changes Affecting Other Providers (12VAC30-80) Rescinded

Update No. 1: An effective date change shall not be made in the fee schedule corresponding to a change in the billing unit for mental health support services from a block of time to 15-minute increments (12VAC30-50-226).

- Anticipated Provider Fiscal Impact = \$0

Update No. 2: 12VAC30-80-30 shall not be amended to increase supplemental payments for freestanding children's hospitals with more than 50% Medicaid inpatient utilization.

- Anticipated Provider Fiscal Impact = (\$2,763,460)

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from William Lessard (contact information below) and this notice is available for public review on the Regulatory Town Hall (www.townhall.virginia.gov). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Lessard and such comments are available for review at the same address.

Contact Information: William Lessard, Provider Reimbursement Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-4593, or email william.lessard@dmas.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Virginia Waste Management Board conducted a small business impact review of **9VAC20-120, Regulated Medical Waste Management Regulations**, and determined that this regulation should be retained in its current form. The Virginia Waste Management Board is publishing its report of findings dated June 11, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

In order to continue to protect the public from risks associated with regulated medical waste the regulation needs to be retained. The regulations currently include reduced requirements for a "limited small clinic" many of which may meet the definition of a small business. This allows limited small clinics to have reduced requirements for storage areas based on the weekly volume of the waste handled by the

facility as well as the total volume stored. These provisions should reduce the economic impact on some small businesses regulated by this regulation. Additionally, these regulations allow for a permit-by-rule for onsite treatment, which is a more streamlined permitting process for those small businesses who treat their own regulated medical waste.

The comments submitted by the public indicated that there are some areas in which the regulation may need to be clarified or simplified. One commenter indicated support for removing the requirement for operators to complete a state licensing program for onsite treatment, stating this requirement was unique to Virginia. However, the state licensing requirement is a statutory requirement. The commenter suggested replacing this requirement with a requirement that the treatment system be operated and maintained according to manufacturer specifications. A commenter also asked that the agency consider expanding the number of facilities that can receive treated regulated medical waste.

The regulation can be seen as complex since it does contain specific standards that must be met concerning the treatment of regulated medical waste. The regulations however need to contain specific requirements for the proper treatment of regulated medical waste to ensure that the waste is appropriately handled and treated to prevent the spread of disease.

The regulations are part of a series of regulations that regulate the medical community and those handling regulated medical waste. The Virginia Department of Health (VDH), the Virginia Department of Labor and Industry (DOLI) and federal Occupational Safety and Health Administration (OSHA) also regulate the activities of the medical community. These regulations have been created to avoid conflicts with the requirements of VDH, DOLI, and OSHA. These regulations contain requirements for the storage, treatment, and disposal of regulated medical waste.

These regulations were revised in 2013 (removal of transporter registration requirement), 2011 (update of citations needed to be consistent with amendment of 9VAC20-81), and 2002. Since that time technology has advanced, which has changed the breakdown of which technologies are being used to treat regulated medical waste. The use of incineration to treat regulated medical waste has been replaced with other treatment technologies.

The agency is retaining the regulation. The agency will be convening a stakeholder group to discuss potential changes regarding these regulations. The stakeholder group will focus on increasing clarity within the regulation and on other possible changes that should be considered for the onsite storage and treatment of regulated medical waste.

Contact Information: Justin Williams, Office of Waste Permitting and Compliance Director, Department of

Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4185, FAX (804) 698-4234, or email justin.williams@deq.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Consent Special Order for Harbor Station Communities, LLC

An enforcement action has been proposed for Harbor Station Communities, LLC, in Prince William County, Virginia. The consent order describes a settlement to resolve violations of State Water Control Law and the applicable regulations associated with the development of the Harbor Station Development Project. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Daniel Burstein will accept comments by email at daniel.burstein@deq.virginia.gov, FAX at (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from July 15, 2014, through August 14, 2014.

Proposed Consent Order for Mr. Robert W. Harris dba Whiskey Creek Lawn and Tree Service

An enforcement action has been proposed for Mr. Robert W. Harris dba Whiskey Creek Lawn and Tree Service for violations in Augusta County, Virginia. A proposed consent order describes a settlement to resolve an unpermitted discharge violation to Buffalo Branch in Swoope, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX at (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 July 14, 2014, through August 13, 2014.

Proposed Consent Special Order for The Kittrell Company

An enforcement action has been proposed for The Kittrell Company for alleged violations at Mountain Cove Subdivision, Henrico County, Virginia. The State Water Control Board proposes to issue a consent special order to The Kittrell Company to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Gina Pisoni will accept comments by email at gina.pisoni@deq.virginia.gov, FAX at (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from July 14, 2014, through August 15, 2014.

Proposed Consent Order for Rush Oil Co., Inc.

An enforcement action has been proposed for Rush Oil Co., Inc. for violations in Washington County, Virginia. The proposed consent order addresses a release of petroleum product at Dillow's Shop and Wash, and contains schedules for closure of the underground storage tanks at the facility and remediation of the release. The proposed order also contains a civil charge. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Ralph T. Hilt will accept comments by email at ralph.hilt@deq.virginia.gov, FAX at (276) 676-4899, or postal mail at Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, from July 15, 2014, through August 13, 2014.

Proposed Enforcement Action for SMM Southeast LLC

An enforcement action has been proposed for SMM Southeast LLC, for violations of the State Water Control Law in Chesapeake, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. John Brandt will accept comments by email at john.brandt@deq.virginia.gov, FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from July 14, 2014, through August 13, 2014.

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/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for

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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

DEPARTMENT OF GENERAL SERVICES

Title of Regulation: **1VAC30-41. Regulation for the Certification of Laboratories Analyzing Drinking Water.**

Publication: 30:14 VA.R. 1766-1778 March 10, 2014.

Correction to Final Regulation:

Page 1771, 1VAC30-41-150, subsection I, subdivision 9, line 2, change "triannual" to "triennial"

VA.R. No. R10-2245; Filed June 23, 2014, 2:58 p.m.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: **13VAC5-51. Virginia Statewide Fire Prevention Code.**

Publication: 30:16 VA.R. 2027-2071 April 7, 2014.

Correction to Final Regulation:

Page 2046, 13VAC5-51-131 M, in 314.5 Smokeless powder and small arms primers:

paragraph 1, line 3, change "5506.5.1.1" to "5606.5.1.1"

paragraph 2, line 3, change "5506.5.2.1" to "5606.5.2.1"

paragraph 4, line 3, change "5506.5.2.3" to "5606.5.2.3"

VA.R. Doc. No. R12-3161; Filed June 26, 2014, 3:47 p.m.

* * *

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 2093, 13VAC5-63-210 D 3, in 314.5 Smokeless powder and small arms primers:

paragraph 1, line 3, change "5506.5.2.1" to "5606.5.2.1"

paragraph 4, line 3, change "5506.5.2.3" to "5606.5.2.3"

Page 2093, 13VAC5-63-210 D 4, line 2, change "5501.1" to "5601.1"

Page 2094, 13VAC5-63-210 D 5, lines 1 and 3, change "5506.4" to "5606.4"

Page 2094, 13VAC5-63-210 D 6, change "5506.4.1" to "5606.4.1" and "5506.4.2" to "5606.4.2"

Page 2094, 13VAC5-63-210 D 7, lines 1 and 3, change "5506.5.1.1" to "5606.5.1.1"

Page 2094, 13VAC5-63-210 D 8, change "5506.5.1.3" to "5606.5.1.3"

Page 2094, 13VAC5-63-210 D 9, lines 1 and 3, change "5506.5.2.1" to "5606.5.2.1"

Page 2094, 13VAC5-63-210 D 9, column 2, paragraph 4, line 3, after "Section" replace "3304" with "[~~3304~~ 5604]"

VA.R. Doc. No. R12-3159; Filed June 26, 2014, 3:47 p.m.