



# VIRGINIA

## REGISTER OF REGULATIONS

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# VIRGINIA REGISTER INFORMATION PAGE

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

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

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

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

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

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

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

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

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

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

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

## **FAST-TRACK RULEMAKING PROCESS**

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

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## **STATEMENT**

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

## **CITATION TO THE VIRGINIA REGISTER**

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

*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**, Chair; **Gregory D. Habeeb**, Vice Chair; **James A. "Jay" Leftwich**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Rita Davis**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Charles S. Sharp**; **Samuel T. Towell**; **Mark J. Vucci**.

Staff of the Virginia Register: **Karen Perrine**, Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Alexandra Stewart-Jonte**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

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## PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

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### June 2018 through April 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 ( <b>Tuesday</b> )	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 ( <b>Monday</b> )	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 ( <b>Friday</b> )	January 7, 2019
35:11	January 2, 2019	January 21, 2019
35:12	January 16, 2019	February 4, 2019
35:13	January 30, 2019	February 18, 2019
35:14	February 13, 2019	March 4, 2019
35:15	February 27, 2019	March 18, 2019
35:16	March 13, 2019	April 1, 2019
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF PSYCHOLOGY

#### Initial Agency Notice

Title of Regulation: **18VAC125-20. Regulations Governing the Practice of Psychology.**

Statutory Authority: § 54.1-3605 of the Code of Virginia.

Name of Petitioner: Lee Cooper.

Nature of Petitioner's Request: Proposing that PCSAS be recognized as an additional accrediting body of doctoral programs in psychology in regulation 18VAC125-20-54.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition has been filed with the Registrar of Regulations for publication on June 25, 2018, with a request for comment to be received until July 24, 2018. The petition will also be posted for comment on the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov>. At the next meeting after the comment period, which is scheduled for October 30, 2018, the board will consider the petition and any comment received to decide whether or not to initiate the rulemaking process.

Public Comment Deadline: July 24, 2018.

Agency Contact: Jaime Hoyle, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4406, or email [jaime.hoyle@dhp.virginia.gov](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. R18-35; Filed May 23, 2018, 4:43 p.m.

## BOARD OF VETERINARY MEDICINE

#### Initial Agency Notice

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

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

Name of Petitioner: Kelly Gottschalk, DVM.

Nature of Petitioner's Request: To amend 18VAC150-20-170 to allow practice management courses to be approved for continuing education credit.

Agency Plan for Disposition of Request: The petition will be published on June 25, 2018, in the Virginia Register of Regulations and also posted on the Virginia Regulatory Town Hall at [www.townhall.virginia.gov](http://www.townhall.virginia.gov) to receive public comment ending July 20, 2018. Following receipt of all comments on the petition to amend regulations, the board will decide whether to make any changes to the regulatory language. This matter will be on the board's agenda for its first meeting after the comment period, which is scheduled for July 23, 2018.

Public Comment Deadline: July 20, 2018.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4468, or email [leslie.knachel@dhp.virginia.gov](mailto:leslie.knachel@dhp.virginia.gov).

VA.R. Doc. No. R18-36; Filed June 1, 2018, 10:31 a.m.



## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

#### Agency Decision

Title of Regulation: **24VAC35-31. VASAP Case Management Policy and Procedures Manual.**

Statutory Authority: § 18.2-270.1 of the Code of Virginia.

Name of Petitioner: David Hites.

Nature of Petitioner's Request: On January 12, 2018, citing § 2.2-4007 of the Code of Virginia, David Hites requested changes to § 18.2-270.1 of the Code of Virginia and the VASAP Case Management Operational Guidelines.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 29, 2018, the Commission on VASAP reviewed Mr. Hites' proposed changes to § 18.2-270.1 of the Code of Virginia and the VASAP Case Management Operational Guidelines. The commission also considered all applicable public comments. The commission unanimously voted to deny, in its entirety, the petition (Petition 266). The reasons for denial are detailed below:

1. Request to amend § 18.2-270.1 of the Code of Virginia with regard to the "fail point" of an ignition interlock system: The commission does not have legal authority to amend the Code of Virginia.
2. Request to amend the Case Management Operational Guidelines with regard to the 15-minute time requirement to clear a violation: The current process provides ample time to provide a retest and safely remove the car from traffic to do so.
3. Request to amend the Case Management Operational Guidelines to change the process for reviewing interlock violations to require "dual approvals": The current procedure for reviewing and reporting violations is appropriate for the management and oversight of offenders and compliance with court and legal requirements.
4. Request to amend the Case Management Operational Guidelines to hold case managers to a 0.015% BAC

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# Petitions for Rulemaking

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elimination rate for all violations: The current process of reporting violations above 0.02% BAC is in compliance with requirements in the Code of Virginia.

5. Request to amend § 18.2-270.1 B of the Code of Virginia with regard to the six-consecutive-month interlock installation without alcohol-related violations requirement: The commission does not have the legal authority to amend the Code of Virginia.

6. Request to list all commission members and staff with contact information for each member, including an email address and phone number on the VASAP website: The website in its current form lists all commission members, the commission office mailing address, email address, phone number, and fax number; this information is sufficient to enable the general public to have several methods for contacting members and staff.

7. Request to amend the Case Management Operational Guidelines to require local ASAPs to provide each client a contact list of ASAP case managers and director: ASAP participants are currently provided with local contact information at the time of enrollment.

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

VA.R. Doc. No. R18-21; Filed May 29, 2018, 12:36 p.m.

## Agency Decision

Title of Regulation: **24VAC35-60. Ignition Regulations.**

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

Name of Petitioner: Cynthia Hites.

Nature of Petitioner's Request: On January 26, 2018, citing § 2.2-4007 of the Code of Virginia, Cynthia Hites requested changes to §§ 18.2-270.1 and 18.2-270.2 of the Code of Virginia and 24VAC35-60 with regard to the terms "alcohol" and "ethanol."

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 29, 2018, the Commission on VASAP considered Ms. Hites' proposed changes to §§ 18.2-270.1 and 18.2-270.2 of the Code of Virginia as well as all relevant public comments. The commission voted unanimously to deny, in its entirety, the petition (Petition 267). The reasons for denial are detailed below:

1. Request to amend § 18.2-270.1 of the Code of Virginia regarding amending each reference of "alcohol" to "ethanol": The commission does not have legal authority to amend the Code of Virginia.

2. Request to amend § 18.2-270.2 of the Code of Virginia regarding amending each reference of "alcohol" to "ethanol": The commission does not have legal authority to amend the Code of Virginia.

3. Request to amend 24VAC35-60 regarding the terms of "alcohol" and "ethanol": The commission denied this request as the language in the Virginia Administrative Code is currently consistent with the law as identified in §§ 18.2-270.1 and 18.2-270.2 of the Code of Virginia. The Commission does not desire to change the language in the Virginia Administrative Code, thereby creating inconsistency.

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

VA.R. Doc. No. R18-22; Filed May 29, 2018, 12:54 p.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 22. SOCIAL SERVICES

### DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

#### **Withdrawal of Notice of Intended Regulatory Action**

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department for Aging and Rehabilitative Services (DARS) has WITHDRAWN the Notice of Intended Regulatory Action (NOIRA) for **22VAC30-30, Provision of Independent Living Rehabilitation Services**, which was published in [34:6 V.A.R. 591 November 13, 2017](#). On November 13, 2017, DARS published a NOIRA with a 30-day public comment period. The NOIRA was prompted by (i) a periodic review and (ii) the federal Workforce Innovation and Opportunity Act (WIOA) of 2014. DARS concluded that changes are needed to the chapter but needs federal Administration for Community Living (ACL) guidance (per § 706(b) of WIOA) to determine specific changes. ACL has been granted an extension by the U.S. Office of Management and Budget for the guidance until the fall of 2018. DARS is withdrawing the NOIRA stage and will reinitiate a new NOIRA stage once the agency has the ACL guidance.

Agency Contact: Leah Mills, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7610, FAX (804) 662-7663, TTY (800) 464-9950, or email [leah.mills@dars.virginia.gov](mailto:leah.mills@dars.virginia.gov).

V.A.R. Doc. No. R18-5333; Filed May 31, 2018, 2:40 p.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 8. EDUCATION

### VIRGINIA COMMONWEALTH UNIVERSITY

#### Final Regulation

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

**Title of Regulation:** **8VAC90-30. Guidelines for Demonstrations on the Campuses of Virginia Commonwealth University (repealing 8VAC90-30-10 through 8VAC90-30-40).**

**Statutory Authority:** § 23.1-1301 of the Code of Virginia.

**Effective Date:** June 6, 2018.

**Agency Contact:** Jacqueline Kniska, University Chief Integrity and Compliance Officer, Virginia Commonwealth University, P.O. Box 842503, 918 West Franklin Street, Richmond, VA 23284, telephone (804) 828-3976, or email jkniska@vcu.edu.

#### Summary:

*The action repeals Guidelines for Demonstrations on the Campuses of Virginia Commonwealth University (8VAC90-30) because the regulation is significantly outdated, ineffectual, and rendered obsolete by a recently approved universitywide policy.*

VA.R. Doc. No. R18-5060; Filed June 1, 2018, 9:48 a.m.

#### Final Regulation

**REGISTRAR'S NOTICE:** The following amendments are exempt from the Administrative Process Act pursuant to § 2.2-4002 C of the Code of Virginia, which provides that minor changes to regulations published in the Administrative Code under the Virginia Register Act, Chapter 41 (§ 2.2-4100 et seq.) of Title 2.2 of the Code of Virginia, made by the Virginia Code Commission pursuant to § 30-150 of the Code of Virginia, shall be exempt from the provisions of the Administrative Process Act.

**Title of Regulation:** **8VAC90-60. Weapons Regulation (amending 8VAC90-60-10).**

**Statutory Authority:** § 23.1-1301 of the Code of Virginia.

**Effective Date:** June 6, 2018.

**Agency Contact:** Jacqueline Kniska, University Chief Integrity and Compliance Officer, Virginia Commonwealth University, P.O. Box 842503, 918 West Franklin Street, Richmond, VA 23284, telephone (804) 828-3976, or email jkniska@vcu.edu.

#### Summary:

*The amendments correct a citation to the Code of Virginia made necessary by the recodification of Title 23 of the Code of Virginia to Title 23.1.*

#### 8VAC90-60-10. Definitions.

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

"Police officer" means a law-enforcement official appointed pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 and Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2, ~~Chapter 17 (§ 23-232 Article 3 (§ 23.1-809 et seq.) of Chapter 8~~ of Title ~~23 23.1~~, Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, and Chapter 1 (§ 52-1 et seq.) of Title 52 of the Code of Virginia and sworn federal law-enforcement officers.

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

"Weapon" means (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, razor slingshot, spring stick, metal knucks, blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such manner as to allow them to swing freely, which may be known as nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; or (iv) any disc, of whatever configuration, having at least two points or pointed blades that is designed to be thrown or propelled and that may be known as throwing star or oriental dart.

VA.R. Doc. No. R18-5521; Filed June 1, 2018, 9:48 a.m.

## COLLEGE OF WILLIAM AND MARY

### Final Regulation

**REGISTRAR'S NOTICE:** The College of William and Mary is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: **8VAC115-20. Weapons on Campus (amending 8VAC115-20-10, 8VAC115-20-20, 8VAC115-20-30).**

Statutory Authority: § 23.1-1301 of the Code of Virginia.

Effective Date: June 7, 2018.

Agency Contact: Carla Costello, ADA Coordinator and Compliance Investigator, College of William and Mary, 108 James Blair Hall, Williamsburg, VA 23185, telephone (757) 221-1254, or email cacostello@wm.edu.

**Summary:**

*The amendments (i) refine the definition of "weapon," (ii) clarify the application of the regulation, and (iii) address possession of weapons inside all buildings controlled by the university, at outdoor locations where people congregate, and at events on property controlled by the university.*

**8VAC115-20-10. Definitions.**

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

"Police officer" means law-enforcement officials appointed pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 and Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2, ~~Chapter 17 (§ 23-232 Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23~~ 23.1, Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, or Chapter 1 (§ 52-1 et seq.) of Title 52 of the Code of Virginia or sworn federal law-enforcement officers.

"University property" means any property, vehicle, or vessel owned, leased, or controlled by the College of William & Mary in Virginia, including the Virginia Institute of Marine Science.

"Weapon" means any ~~firearm or any other weapon listed in § 18.2-308 A of the Code of Virginia~~ instrument of combat, or any object not designed as an instrument of combat but carried for the apparent purpose of inflicting or threatening bodily injury, including:

1. Firearms, including any pistol, revolver, rifle, shotgun, air-pistol, paintball gun, or other weapon designed or intended to propel a bullet, cartridge, or missile of any kind by action of an explosion of any combustible material;
2. Knives, including any dirk, bowie knife, switchblade knife, ballistic knife, butterfly knife, sword, machete, razor, spring stick, or other bladed weapon with a blade longer than four inches;
3. Razors or metal knuckles;
4. Blackjacks, foils, or hatchets;
5. Bows and arrows, crossbows, and slingshots;

6. Nun chakhas, including any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may also be known as a nun chuck, nunchaku, shuriken, or fighting chain;

7. Throwing stars, including any disc, of whatever configuration, having at least two points or pointed blades that is designed to be thrown or propelled and that may be known as an oriental dart;

8. Stun guns, including any device that emits a momentary or pulsed output that is electrical, audible, optical, or electromagnetic in nature and that is designed to temporarily incapacitate a person; or

9. Any explosive or incendiary device, including fireworks or other devices relying on any combination of explosives and combustibles to be set off to generate lights, smoke, or noise.

"Weapon" does not include (i) knives or razors commonly used for domestic or academic purposes or pen or folding knives with blades less than three inches in length or (ii) mace, pepper spray, and other such items possessed, stored, or carried for use in accordance with the purpose intended by the original manufacturer.

**8VAC115-20-20. Possession of weapons prohibited; exceptions.**

A. Possession, storing, or carrying of any weapon by any person, except a police officer or an individual authorized pursuant to university policy, is prohibited on university property, whether in academic buildings, administrative buildings, student residence and student life buildings, or dining or athletic facilities, any university building or while attending an official university event, such as an athletic, academic, social, recreational, or educational event, or on vessels or in vehicles that are university property. This prohibition also applies to all events or activities on university property where people congregate in any public or outdoor areas.

B. This prohibition does not apply to:

1. A police officer on university property in an official capacity pursuant to a university request, mutual aid agreement, or on active duty and within the officer's jurisdiction.
2. A university employee possessing, storing, or carrying a weapon (i) as authorized or required by the terms of university employment or (ii) as permitted by the Chief of the William & Mary Police Department or the chief's designee for good cause shown, which may contain conditions to maintain the safety of the university community. The chief's authority to grant such permission extends to persons who are neither students nor employees.



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# Regulations

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3. A student as authorized by the Dean of Students or the dean's designee for good cause shown. Requests for such authorization shall be evaluated on a case-by-case basis and may contain conditions to maintain the safety of the university community.

C. Entry upon ~~such~~ university property in violation of this prohibition is expressly forbidden. Persons violating this prohibition will be asked to remove the weapon immediately from university property. Failure to comply with this request may result in arrest for trespass. Members of the university community are also subject to disciplinary action.

## 8VAC115-20-30. Person lawfully in charge.

In addition to individuals authorized by university policy of job duties, College of William & Mary police officers are lawfully in charge for the purposes of forbidding entry upon or remaining upon university property while possessing or carrying weapons in violation of this prohibition.

VA.R. Doc. No. R18-5522; Filed June 4, 2018, 1:58 p.m.

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## TITLE 13. HOUSING

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

#### Notice of Suspension of Regulatory Process and Additional Comment Period

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

Statutory Authority: § 36-98 of the Code of Virginia.

Public Comment Deadline: July 25, 2018.

Agency Contact: Kyle Flanders, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TTY (804) 371-7089, or email [kyle.flanders@dhcd.virginia.gov](mailto:kyle.flanders@dhcd.virginia.gov).

Notice is hereby given that, pursuant to § 2.2-4007.06 of the Code of Virginia, the Board of Housing and Community Development is suspending specific provisions of the final Virginia Uniform Statewide Building Code (13VAC5-63), published in [34:18 VA.R. 1744-1961 April 30, 2018](#), and corrected by an errata published in this issue of the Virginia Register of Regulations. The board is suspending and soliciting additional comments on one subsection and one section that were added to the regulation between publication of the proposed regulations and publication of the final regulations.

The additional comment period ends on July 25, 2018. Written comment regarding these specific provisions may be submitted to the agency contact.

The specific provisions, as corrected by the errata for 13VAC5-63-470, are as follows:

### 13VAC5-63-470 E (Section 103.2.3 Responsibility).

~~D.~~ E. 103.2.3 Responsibility. The owner of a structure shall provide and maintain all buildings, structures, systems, facilities and associated equipment in compliance with this code unless it is specifically expressed or implied that it is the responsibility of the tenant or occupant.

### 13VAC5-63-485. Section 105 Violations.

105.1 Violation a misdemeanor; civil penalty. In accordance with § 36-106 of the Code of Virginia, it shall be unlawful for any owner or any other person, firm or corporation, on or after the effective date of any code provisions, to violate any such provisions. Any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the code that are not abated or remedied promptly after receipt of a notice of violation from the local enforcement officer.

Note: See the full text of § 36-106 of the Code of Virginia for additional requirements and criteria pertaining to legal action relative to violations of the code.

105.2 Notices, reports and orders. Upon findings by the code official that violations of this code exist, the code official shall issue a correction notice or notice of violation to the owner or the person responsible for the maintenance of the structure. Work done to correct violations of this code subject to the permit, inspection and approval provisions of the VCC shall not be construed as authorization to extend the time limits established for compliance with this code.

105.3 Correction notice. The correction notice shall be a written notice of the defective conditions. The correction notice shall require correction of the violation within a reasonable time unless an emergency condition exists as provided under the unsafe building provisions of Section 106. Upon request, the correction notice shall reference the code section that serves as the basis for the defects and shall state that such defects shall be corrected and reinspected in a reasonable time designated by the code official.

105.4 Notice of violation. If the code official determines there are violations of this code a written notice of violation may be issued to the owner or the person responsible for the maintenance or use of the building or structure in lieu of a correction notice as provided for in Section 105.3. In addition, the code official shall issue a notice of violation for any uncorrected violation remaining from a correction notice established in Section 105.3. The code official shall provide the section numbers to the owner for any code provisions cited in the notice of violation. The notice shall require

correction of the violation within a reasonable time. The owner or person to whom the notice of violation has been issued shall be responsible for contacting the code official within the timeframe established for any reinspections to assure the violations have been corrected. The code official will be responsible for making such inspection and verifying the violations have been corrected. In addition, the notice of violation shall indicate the right of appeal by referencing the appeals section of this code.

Exceptions:

1. Notices issued and legal proceedings or emergency actions taken under Section 106 for unsafe structures, unsafe equipment, or structures unfit for human occupancy.
2. Notices issued for failing to maintain buildings and structures as required by Section 103.2, as evidenced by multiple or repeated violations on the same property are not required to include a compliance deadline for correcting defects.

105.5 Coordination of inspections. The code official shall coordinate inspections and administrative orders with any other state or local agencies having related inspection authority and shall coordinate those inspections required by the Virginia Statewide Fire Prevention Code (13VAC5-51) for maintenance of fire protection devices, equipment, and assemblies so that the owners and occupants will not be subjected to numerous inspections or conflicting orders.

Note: The Fire Prevention Code requires the fire official to coordinate such inspections with the code official.

105.6 Further action when violation not corrected. If the responsible party has not complied with the notice of violation, the code official may request the legal counsel of the locality to institute the appropriate legal proceedings to restrain, correct or abate the violation or to require the removal or termination of the use of the building or structure involved. In cases where the locality or legal counsel so authorizes, the code official may issue or obtain a summons or warrant. Compliance with a notice of violation notwithstanding, the code official may request legal proceedings be instituted for prosecution when a person, firm or corporation is served with three or more notices of violation for the same property.

105.7 Penalties and abatement. Penalties for violations of this code shall be as set out in § 36-106 of the Code of Virginia. The successful prosecution of a violation of the code shall not preclude the institution of appropriate legal action to require correction or abatement of a violation.

VA.R. Doc. No. R16-4664; Filed June 6, 2018, 10:58 a.m.

**TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**

**BOARD FOR BARBERS AND COSMETOLOGY**

**Final Regulation**

**REGISTRAR'S NOTICE:** The Board for Barbers and Cosmetology is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Professional and Occupational Regulation pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Board for Barbers and Cosmetology will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: **18VAC41-20. Barbering and Cosmetology Regulations (amending 18VAC41-20-140).**

**18VAC41-50. Tattooing Regulations (amending 18VAC41-50-130).**

**18VAC41-60. Body-Piercing Regulations (amending 18VAC41-60-90).**

**18VAC41-70. Esthetics Regulations (amending 18VAC41-70-120).**

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

Effective Date: August 1, 2018.

Agency Contact: Demetrios J. Melis, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (866) 245-9693, or email barbercosmo@dpor.virginia.gov.

Summary:

*The amendments extend the reduction in application, renewal, and reinstatement fees for all Board for Barbers and Cosmetology licenses through August 31, 2020, in compliance with § 54.1-113 of the Code of Virginia.*



# Regulations

## Part III Fees

### 18VAC41-20-140. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016, through August 31, 2018 2020	AMOUNT DUE September 1, 2018 2020, and after	WHEN DUE
<b>Individuals:</b>			
Application	\$75	\$105	With application
License by Endorsement	\$75	\$105	With application
<b>Renewal:</b>			
Barber	\$75	\$105	With renewal card prior to expiration date
Cosmetologist	\$75	\$105	With renewal card prior to expiration date
Nail Technician	\$75	\$105	With renewal card prior to expiration date
Wax Technician	\$75	\$105	With renewal card prior to expiration date
Reinstatement	\$150* *includes \$75 renewal fee and \$75 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
<b>Instructors:</b>			
Application	\$100	\$125	With application
License by Endorsement	\$100	\$125	With application
Renewal	\$100	\$150	With renewal card prior to expiration date
Reinstatement	\$200* *includes \$100 renewal fee and \$100 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
<b>Facilities:</b>			
Application	\$130	\$190	With application
Renewal	\$130	\$190	With renewal card prior to expiration date

Reinstatement	\$260* *includes \$130 renewal fee and \$130 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
<b>Schools:</b>			
Application	\$140	\$220	With application
Add Program	\$100	\$100	With application
Renewal	\$140	\$220	With renewal card prior to expiration date
Reinstatement	\$280* *includes \$140 renewal fee and \$140 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application

## Part III Fees

### 18VAC41-50-130. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016, through August 31, 2018 2020	AMOUNT DUE September 1, 2018 2020, and after	WHEN DUE
<b>Individuals:</b>			
Application	\$75	\$105	With application
License by Endorsement	\$75	\$105	With application
Renewal	\$75	\$105	With renewal card prior to expiration date
Reinstatement	\$150* *includes \$75 renewal fee and \$75 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
<b>Instructors:</b>			
Application	\$100	\$125	With application
License by Endorsement	\$100	\$125	With application

Renewal	\$100	\$150	With renewal card prior to expiration date
Reinstatement	\$200* *includes \$100 renewal fee and \$100 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
Parlors or salons:			
Application	\$130	\$190	With application
Renewal	\$130	\$190	With renewal card prior to expiration date
Reinstatement	\$260* *includes \$130 renewal fee and \$130 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
Schools:			
Application	\$140	\$220	With application
Renewal	\$140	\$220	With renewal card prior to expiration date
Reinstatement	\$280* *includes \$140 renewal fee and \$140 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application

**Part III  
Fees**

**18VAC41-60-90. Fees.**

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016, through August 31, <del>2018</del> 2020	AMOUNT DUE September 1, <del>2018</del> 2020, and after	WHEN DUE
Individuals:			
Application	\$75	\$105	With application

License by Endorsement	\$75	\$105	With application
Renewal:	\$75	\$105	With renewal card prior to expiration date
Reinstatement	\$150* *includes \$75 renewal fee and \$75 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application
Salons:			
Application	\$130	\$190	With application
Renewal	\$130	\$190	With renewal card prior to expiration date
Reinstatement	\$260* *includes \$130 renewal fee and \$130 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application

**Part III  
Fees**

**18VAC41-70-120. Fees.**

The following fees apply:

FEE TYPE	AMOUNT DUE September 1, 2016, through and August 31, <del>2018</del> 2020	AMOUNT DUE September 1, <del>2018</del> 2020, and after	WHEN DUE
Individuals:			
Application	\$75	\$105	With application
License by Endorsement	\$75	\$105	With application
Renewal	\$75	\$105	With renewal card prior to expiration date
Reinstatement	\$150* *includes \$75 renewal fee and \$75 reinstatement fee	\$210* *includes \$105 renewal fee and \$105 reinstatement fee	With reinstatement application

# Regulations

Instructors:			
Application	\$100	\$125	With application
License by Endorsement	\$100	\$125	With application
Renewal	\$100	\$150	With renewal card prior to expiration date
Reinstatement	\$200* *includes \$100 renewal fee and \$100 reinstatement fee	\$300* *includes \$150 renewal fee and \$150 reinstatement fee	With reinstatement application
Spas:			
Application	\$130	\$190	With application
Renewal	\$130	\$190	With renewal card prior to expiration date
Reinstatement	\$260* *includes \$130 renewal fee and \$130 reinstatement fee	\$380* *includes \$190 renewal fee and \$190 reinstatement fee	With reinstatement application
Schools:			
Application	\$140	\$220	With application
Renewal	\$140	\$220	With renewal card prior to expiration date
Reinstatement	\$280* *includes \$140 renewal fee and \$140 reinstatement fee	\$440* *includes \$220 renewal fee and \$220 reinstatement fee	With reinstatement application

V.A.R. Doc. No. R18-5494; Filed May 29, 2018, 2:22 p.m.

## BOARD FOR CONTRACTORS

### Final Regulation

**REGISTRAR'S NOTICE:** The Board for Contractors 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 where no

agency discretion is involved. The Board for Contractors will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation: 18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-120, 18VAC50-30-130).**

**Statutory Authority:** §§ 54.1-201, 54.1-1102, and 54.1-1146 of the Code of Virginia.

**Effective Date:** January 1, 2019.

**Agency Contact:** Eric L. Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA

23233, telephone (804) 367-2785, FAX (866) 430-1033, or email contractors@dpor.virginia.gov.

#### Summary:

*Pursuant to Chapter 750 of the 2018 Acts of Assembly, the amendments distinguish tradesman licenses from other categories of individual credentials, extend the license period for individuals licensed as tradesman from two years to three years, and align renewal fees with the adjusted longer license term.*

#### 18VAC50-30-120. Renewal.

A. Licenses issued under this chapter to electricians, gas fitters, HVAC tradesmen, or plumbers shall expire three years from the last day of the month in which they were issued as indicated on the license.

B. All other licenses and certification cards issued under this chapter shall expire two years from the last day of the month in which they were issued as indicated on the license or certification card.

~~B.~~ C. Effective with all licenses issued or renewed after December 31, 2007, as a condition of renewal or reinstatement and pursuant to § 54.1-1133 of the Code of Virginia, all individuals holding tradesman licenses with the trade designations of plumbing, electrical, and heating ventilation and cooling shall be required to satisfactorily complete three hours of continuing education for each designation, and individuals holding licenses as liquefied petroleum gas fitters and natural gas fitter providers, one hour of continuing education, relating to the applicable building code, from a provider approved by the board in accordance with the provisions of this chapter. An inactive tradesman is not required to meet the continuing education requirements as a condition of renewal.

~~C.~~ D. Certified elevator mechanics and certified accessibility mechanics, as a condition of renewal or reinstatement and pursuant to § 54.1-1143 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to the provisions of the Virginia Uniform

Statewide Building Code pertaining to elevators, escalators, and related conveyances. This continuing education will be from a provider approved by the board in accordance with the provisions of this chapter.

~~D.~~ E. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129.1 B of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction from a provider approved by the board in accordance with the provisions of this chapter.

~~E.~~ F. Renewal fees are as follows:

Tradesman license	<del>\$90</del> <u>\$135</u>
Liquefied petroleum gas fitter license	\$90
Natural gas fitter provider license	\$90
Backflow prevention device worker certification	\$90
Elevator mechanic certification	\$90
Certified accessibility mechanic	\$90
Water well systems provider certification	\$90
Residential building energy analyst license	\$90

All fees are nonrefundable and shall not be prorated.

For renewal fees received on or before August 31, 2019, the fee shall be \$60.

~~F.~~ G. The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a photocopy of the tradesman license or backflow prevention device worker certification card may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

~~G.~~ H. The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

~~H.~~ I. The board may deny renewal of a tradesman license or a backflow prevention device worker certification card for the same reasons as it may refuse initial issuance or discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

~~I.~~ J. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services

provided by the department such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

~~J.~~ K. Residential building energy analysts, as a condition of renewal or reinstatement, shall provide documentation of continued membership, in good standing, of a certifying organization approved by the board and proof of insurance as required in 18VAC50-30-40 I 4.

**18VAC50-30-130. Reinstatement.**

A. Should the Department of Professional and Occupational Regulation fail to receive the renewal application or fees within 30 days of the expiration date, the regulant will be required to apply for reinstatement of the license or certification card.

B. Reinstatement fees are as follows:

Tradesman license	<del>\$140*</del> <u>\$185*</u>
Liquefied petroleum gas fitter license	\$140*
Natural gas fitter provider license	\$140*
Backflow prevention device worker certification	\$140*
Elevator mechanic certification	\$140*
Certified accessibility mechanic	\$140*
Water well systems provider certification	\$140*
Residential building energy analyst license	\$140*

\*Includes renewal fee listed in 18VAC50-30-120.

All fees required by the board are nonrefundable and shall not be prorated.

For reinstatement fees received on or before August 31, 2019, the fee shall be \$100. This fee includes the renewal fee listed in 18VAC50-30-120.

C. Applicants for reinstatement shall meet the requirements of 18VAC50-30-30.

D. The date on which the reinstatement fee is received by the department or its agent will determine whether the license or certification card is reinstated or a new application is required.

E. In order to ensure that license or certification card holders are qualified to practice as tradesmen, gas fitters, liquefied petroleum gas fitters, natural gas fitter providers, backflow prevention device workers, elevator mechanics, water well systems providers, or residential building energy analysts, no reinstatement will be permitted once two years from the expiration date has passed. After that date the applicant must

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# Regulations

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apply for a new license or certification card and meet the then current entry requirements.

F. Any tradesman, liquefied petroleum gas fitter, or natural gas fitter provider activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Further, any person who holds himself out as a certified backflow prevention device worker, as defined in § 54.1-1128 of the Code of Virginia, or as a certified elevator mechanic or certified accessibility mechanic, as defined in § 54.1-1140 of the Code of Virginia, or as a water well systems provider as defined in § 54.1-1129.1 of the Code of Virginia, without the appropriate certification, may be subject to prosecution under Title 54.1 of the Code of Virginia. Any activity related to the operating integrity of an elevator, escalator, or related conveyance, conducted subsequent to the expiration of an elevator mechanic certification may constitute illegal activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Any individual who completes a residential building energy analysis, as defined in § 54.1-1144 of the Code of Virginia, subsequent to the expiration of a residential building energy analyst license may have engaged in illegal activity and may be subject to prosecution under Title 54.1 of the Code of Virginia.

G. The board may deny reinstatement of a license or certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

H. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

VA.R. Doc. No. R18-5471; Filed June 1, 2018, 9:50 a.m.

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# GENERAL NOTICES/ERRATA

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## STATE AIR POLLUTION CONTROL BOARD

### Notice of Periodic Review and Small Business Impact Review of Portions of 9VAC5-80, Permits for Stationary Sources

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Air Pollution Control Board is conducting a periodic review and small business impact review of portions of **9VAC5-80, Permits for Stationary Sources**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

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

The specific regulations being reviewed are as follows:

9VAC5-80, Permits for Stationary Sources:

Part I, Permit Actions before the Board

Part II, Permit Procedures:

Article 4, Insignificant Activities

Article 5, State Operating Permits

Article 6, Permits for New and Modified Stationary Sources

The regulations may be viewed on the DEQ air regulation webpage at <http://www.deq.virginia.gov/Programs/Air/Laws,Regulations,Guidance.aspx>.

The comment period begins June 25, 2018, and ends July 16, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4319, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

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

impact review will be published in the Virginia Register of Regulations.

### Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality on behalf of the State Air Pollution Control Board is conducting a periodic review and small business impact review of **9VAC5-220, Variance for Rocket Motor Test Operations at Atlantic Research Corporation Orange County Facility**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable. The regulations may be viewed on the DEQ air regulation webpage at <http://www.deq.virginia.gov/Programs/Air/Laws,Regulations,Guidance.aspx>.

The comment period begins June 25, 2018, and ends July 16, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, Virginia 23218, telephone: 804-698-4103, FAX: 804-698-4319, or email: [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

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

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the State Air Pollution Control Board conducted a small business impact review of **9VAC5-40, Existing Stationary Sources**, and determined that this regulation should be retained in its current form. The State Air Pollution Control Board is publishing its report of findings dated May 25, 2018, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.



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## General Notices/Errata

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This regulation continues to be needed. It provides sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality. No comments were received that indicate a need to repeal or revise the regulation. The regulation's level of complexity is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible. This regulation does not overlap, duplicate, or conflict with any state law or other state regulation.

Specific articles were last reviewed as follows:

In 2011: Part I, Special Provisions, and Part II, Articles 1, 2, 4 through 27, 29 through 33, 35, 36, 47, 48, 52, and 54.

In 2012: Part II, Article 55.

In 2013: Part II, Article 28.

Over time, it generally becomes less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions.

The department, through examination of the regulation and relevant public comments, has determined that the regulatory requirements currently minimize the economic impact of emission control regulations on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4319, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

### **STATE CORPORATION COMMISSION Bureau of Insurance**

May 29, 2018

Administrative Letter 2018-02

To: All Companies Licensed under Chapters 10, 11, 12, 40, 41, 42, 43, 45 or 61 of Title 38.2 of the Code of Virginia

Re: Virginia Life, Accident and Sickness Insurance Guaranty Association Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association

This Administrative Letter withdraws and replaces Administrative Letter 2014-05.

The purpose of this Administrative Letter is to inform health maintenance organizations, life, accident and sickness companies (insurers), subject to Chapter 17 of Title 38.2 of the Code of Virginia, of the updated disclaimer required to be attached to policies in order to comply with the provisions of

Chapter 706 enacted by the Virginia General Assembly during its 2018 legislative session.

Chapter 706, which will become effective July 1, 2018, amends and re-enacts § 38.2-1016.1 (Organization, Admission and Licensing of Insurers), §§ 38.2-1700 through 38.2-1710, 38.2-1714 and 38.2-1715 (Virginia Life, Accident and Sickness Insurance Guaranty Association), §§ 38.2-4302, 38.2-4310 and 38.2-4319 (Health Maintenance Organizations), §§ 38.2-5506, 38.2-5509 and 38.2-5510 (Risk-Based Capital Act), and § 55-532 (Disposition of Assets by Nonprofit Health Care Entities), and repeals §§ 38.2-4317 and 38.2-4317.1 (Health Maintenance Organizations) updating and expanding the scope of the Guaranty Association to include health maintenance organizations. Pursuant to amendments in § 38.2-1715, the Guaranty Association is required to prepare and submit to the Commission for approval, a summary document describing the general purposes and limitations of Chapter 17, which includes a disclaimer that discusses limitations, exclusions, and the types of policies that are covered by the Guaranty Association.

The summary document entitled Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association (Notice), was initially approved effective November 1, 2010, and updated effective January 1, 2015. This Notice has been revised to include health maintenance organizations as covered under the Virginia Life, Accident and Sickness Insurance Guaranty Association. Beginning July 1, 2018, insurers are required to attach this revised Notice to policies or contracts delivered to policy or contract owners. Insurers are required to attach this Notice to policies or contracts delivered to Virginia policy or contract owners only. Insurers are required to retain evidence of compliance with this Notice requirement so long as the policy or contract remains in effect.

Questions regarding this letter may be directed to Elsie Andy, Manager, Forms and Rates Section, Life and Health Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, Virginia 23218, 804-371-9072, or email [elsie.andy@scc.virginia.gov](mailto:elsie.andy@scc.virginia.gov).

/s/ Scott A. White  
Commissioner of Insurance

### **NOTICE OF PROTECTION PROVIDED BY VIRGINIA LIFE, ACCIDENT AND SICKNESS INSURANCE GUARANTY ASSOCIATION**

This notice provides a brief summary of the Virginia Life, Accident and Sickness Insurance Guaranty Association ("the Association") and the protection it provides for policyholders. This safety net was created under Virginia law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that a life, annuity or accident and sickness insurance company (including a health maintenance organization) licensed in the Commonwealth of Virginia becomes financially unable to meet its obligations and is taken over by its Insurance Department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with Virginia law, with funding from assessments paid by other life and health insurance companies licensed in the Commonwealth of Virginia.

The basic protections provided by the Association are:

**Life Insurance**

- \$300,000 in death benefits
- \$100,000 in cash surrender and withdrawal values

**Health Insurance**

- \$500,000 for health benefit plans
- \$300,000 in disability income insurance benefits
- \$300,000 in long-term care insurance benefits
- \$100,000 in other types of accident and sickness insurance benefits

**Annuities**

- \$250,000 in withdrawal and cash values

The maximum amount of protection for each individual, regardless of the number of policies or contracts, is \$350,000, except for health benefit plans, for which the limit is increased to \$500,000.

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also various residency requirements and other limitations under Virginia law.

To learn more about the above protections, please visit the Association's website at [www.valifega.org](http://www.valifega.org) or contact:

VIRGINIA LIFE, ACCIDENT AND SICKNESS  
INSURANCE GUARANTY ASSOCIATION  
c/o APM Management Services, Inc.  
1503 Santa Rosa Road, Suite 101  
Henrico, VA 23229-5105  
804-282-2240

STATE CORPORATION COMMISSION  
Bureau of Insurance  
P. O. Box 1157  
Richmond, VA 23218-1157  
804-371-9741

Toll Free Virginia only: 1-800-552-7945  
<http://scc.virginia.gov/boi/index.aspx>

Insurance companies and agents are not allowed by Virginia law to use the existence of the Association or its coverage to encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and Virginia law, then Virginia law will control.

May 31, 2018

Administrative Letter 2018-03

To: All Companies Licensed to Write Life Insurance in Virginia

Re: Withdrawal of Administrative Letter 1990-17  
Foreign and Alien Life Insurer's Reserve Valuation Certificate Requirements

This letter serves as notice that Administrative Letter 1990-17 is hereby withdrawn.

Administrative Letter 1990-17 requires foreign and alien insurers to submit to the Commission a "Life Reserve Valuation Certificate" pursuant to § 38.2-3127 B. In 2014 Virginia's Reserve statute (§ 38.2-3126 et seq.), which includes § 38.2-3127, was repealed and replaced with a new Article 10 in Chapter 13 entitled Standard Valuation (§ 38.2-1365 et seq.). Virginia's new Standard Valuation law does not require that a specific "Life Reserve Valuation Certificate" be filed with the Commission. Administrative Letter 1990- 17 is therefore withdrawn.

Questions regarding this letter may be directed to Stephen A. Thomas, Manager, Non-Domestic Section, Financial Regulation Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, Virginia 23218, telephone 804-371-9161, or email [stephen.thomas@scc.virginia.gov](mailto:stephen.thomas@scc.virginia.gov).

June 4, 2018

Administrative Letter 2018-04

To: All Health Carriers Licensed in Virginia in the Individual and Small Group Markets and All Interested Parties

Re: Implementation and Enforcement of Senate Bill 672  
§ 38.2-3406.1 and 38.2-3431 of the Code of Virginia, as Amended

The purpose of this Administrative Letter is to provide guidance to health carriers regarding the implementation and enforcement of the above-referenced statutes that were amended and reenacted by the 2018 Virginia General Assembly, and that will take effect on July 1, 2018.

The current law requires that a "small employer" employ at least one employee but no more than 50 employees on the

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## General Notices/Errata

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first day of the plan year and on business days during the preceding calendar year.

The new law broadens the definition of "small employer" in §§ 38.2-3406.1 and 38.2-3431 of the Code of Virginia ("Code") to include a "self-employed individual,"<sup>1</sup> and to allow a sole shareholder of a corporation or a sole member of a limited liability company ("LLC"), or an immediate family member of such sole shareholder or sole member, to count as an employee of the corporation or LLC, provided that the individual has performed a service for remuneration under a contract of hire.

The Bureau of Insurance ("Bureau") has received several questions regarding the potential conflict between the provisions of SB 672 and the manner in which federal laws, rules and guidance define a small employer who is eligible to purchase health insurance coverage in the small group market. While the inclusion of sole proprietors in the definition of "small employer" does conflict with the definitions of "small employer" as administered by the Department of Health and Human Services, the Department of Labor, and the Internal Revenue Service, § 1321(d) of the Patient Protection and Affordable Care Act ("ACA") specifically provides that federal law shall not be construed to preempt any state law that does not "prevent the application" of the ACA. This provision grants states the flexibility to enact laws and regulations that broaden the protections in the ACA, but that do not inhibit them. SB 672 does not prevent the application of the ACA in the sense that it broadens the definition of "small employer," and does not limit it further than contemplated by the ACA.

In contrast, had SB 672 required that a small employer consist of at least two employees in addition to the employer, it would have prevented employers with just one employee from purchasing coverage in the small group market as permitted by the ACA, and would have clearly been preempted by federal law. Given the fact that SB 672 does not restrict application of the ACA, we find no federal preemption issue.

Additionally, Virginia is not the only state that has enacted a law that requires health carriers to treat a sole proprietor as a small employer group. Other states require carriers to comply with state laws similar to Virginia's, and carriers in those states have managed to do so while also complying with federal rules pertaining to medical loss ratio ("MLR") and risk adjustment. In addition to these general questions regarding the feasibility and legality of enforcing SB 672, the Bureau has received several specific questions regarding its implementation. These questions, and the Bureau's responses to such questions are as follows:

1. Would the Bureau consider limiting these signups to January 1, 2019 so as to allow those enrolled in an individual plan to finish their coverage year? No. As stated above, these statutory changes take effect on July 1, 2018. Pursuant to

§§ 38.2-3432.2, 38.2-3448, and 38.2-508 (2) of the Code, the Bureau is not permitted to create an enrollment period for sole proprietors that is separate and distinct from the enrollment period that is created for all small employers. To do so would be unfairly discriminatory.

2. Would the Bureau consider limiting the small group signups for these sole proprietors to once a year, ala an enrollment period similar to the individual market? No. We understand that health carriers may want a limited enrollment period to prevent adverse selection. However, as described above, Virginia law does not allow the Bureau to provide a limited open enrollment period for a portion of the small group market but not the entire small group market. A carrier should administer enrollment of these sole proprietors and apply reinstatement provisions in the same manner as with other small groups. For example:

- Open enrollment will occur only once per year and will be set by the employer;
- The employer will offer an initial enrollment period during the year to any new subscribers or dependents only when first eligible;
- Coverage for new subscribers or dependents who join the group during the year (not the initial enrolling sole proprietor) may be subject to a waiting period not to exceed 90 days; and
- Subscribers or dependents who did not enroll when first eligible may only enroll at the next open enrollment period, unless they qualify for a special enrollment based on a qualifying event.

The carrier may require any of the above information to be included in application materials as may be done currently for small groups.

3. Does the Bureau envision a change in MLR calculations to account for the sole proprietors added to the small group risk pool? No. Sole proprietors that join the small group risk pool will be part of the individual risk pool for purposes of the federal MLR calculations. The changes to §§ 38.2-3406.1 and 38.2-3431 of the Code do not alter the federal definitions related to MLR calculations. However, for the purposes of filing rates in Virginia, the experience of sole proprietors should be included in the small group risk pool if a small group plan was issued.

4. How does the Bureau plan on calculating risk adjustment under the new rule? We assume that the question is whether sole proprietors will be included in the small group risk pool for purposes of risk adjustment. Again, this is a federal calculation and therefore, this adjustment is based on the federal rules related to risk adjustment.

5. Does the bill violate guaranteed availability statutes at either the state or federal level? No. This new law will require a carrier that offers any health plan in the small group market

to offer that plan to a sole proprietor, pursuant to § 38.2-3448 of the Code. Likewise, any carrier that offers coverage in the individual market must offer coverage to a sole proprietor as an eligible individual. The only exception is for the Federally-facilitated Small Business Health Options Program ("FF-SHOP"). Federal rules do not permit a sole proprietor to obtain coverage through the FF-SHOP.

6. Would plans be allowed to request a sole proprietor's W-2 for the purposes of employment verification? A W-2 cannot be required for a sole proprietor since the more relevant documentation is the tax documentation cited in the definition of "self-employed individual" in § 38.2-3431 of the Code.<sup>2</sup>

7. If the Bureau directs plans to allow immediate enrollment on July 1st, will plans be permitted to update their rates in both the individual and small group markets? No, not for July 1, 2018. Pursuant to 45 CFR § 156.80(d)(4)(i) and (ii), a carrier may not establish the index rate and make market-wide adjustments more frequently than annually, except for the small group market rates, which may be adjusted quarterly. Thus, while federal law prohibits a carrier from adjusting rates in the individual market for 2018, an adjustment can be filed for the small group rates effective October 1, 2018. The timeframe to adjust small group rates for July 1, 2018, has passed. A rate revision may also be filed for the 2019 individual and small group market rates, as applicable, based on valid actuarially-sound assumptions.

8. Does the bill permit plans to enroll joint owners of a "mom-and-pop" business in small group coverage? No. If they are both owners of the corporation or both partners in an LLC, there is no sole shareholder or sole member, and thus, no employees under the new law. If, however, either of the owners is the sole shareholder of the corporation or sole member of the LLC, then that owner and an immediate family member of that owner would qualify as employees and coverage could be obtained in the small group market.

Given the short timeframe for carriers to implement these changes, it will not be necessary for carriers to refile forms and coverage documents for the 2018 plan year to include the new small employer definition. However, forms filed for the 2019 plan year must not conflict with the new definition for small group coverage outside of the FF-SHOP. If a carrier determines that forms for the 2018 plan year will need to be revised for purposes of managing enrollment as described in #2 above, the carrier should contact the Bureau immediately to discuss any necessary changes and the best method for accomplishing such changes.

/s/ Scott A. White  
Commissioner of Insurance

<sup>1</sup>The new law defines "self-employed individual" to mean, "An individual who derives a substantial portion of his income from a trade or business (i) operated by the individual as a sole proprietor, (ii) through which the individual has attempted to earn taxable income, and (iii) for which he has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year." For purposes of this Administrative Letter, the term "sole proprietor" will be used to describe all individuals that qualify as a small employer pursuant to Senate Bill 672.

<sup>2</sup>The Bureau acknowledges that the new law does not require equivalent documentation for a sole shareholder of a corporation or a sole member of an LLC, but the Bureau will permit carriers to require appropriate tax documentation from the previous calendar year for such a sole shareholder or sole member as well as the immediate family member of such sole shareholder or sole member.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**Notice of Public Comment Periods Extended**

The Department of Environmental Quality (DEQ)'s website was offline from May 22, 2018, until June 2, 2018. Due to the extended period of time that notices and documents for review were not available through the website, comment periods are being extended for matters subject to a public comment opportunity during the down time. Additional information is available on the DEQ website at <http://www.deq.virginia.gov/> and on the Virginia Regulatory Town Hall for DEQ at <http://townhall.virginia.gov/1/ViewNotice.cfm?GNID=840>, for the State Air Pollution Control Board at <http://TownHall.virginia.gov/1/ViewNotice.cfm?GNID=839>, for the State Water Control Board at <http://TownHall.virginia.gov/1/ViewNotice.cfm?GNID=841>, and for the Virginia Waste Management Board at <http://TownHall.virginia.gov/1/ViewNotice.cfm?GNID=842>.

Persons with questions on the closing date of a particular matter should contact the staff person listed in the original notice.

We are sorry for any inconvenience and appreciate the public's patience. For assistance, please email [deqpublicinfo@deq.virginia.gov](mailto:deqpublicinfo@deq.virginia.gov).

Contact Information: Department of Environmental Quality Public Information, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4000, or email [deqpublicinfo@deq.virginia.gov](mailto:deqpublicinfo@deq.virginia.gov).

**Sol Leatherwood Solar LLC Notice of Intent for Small Solar Renewable Energy Project (Solar) Permit by Rule - Axton, Henry County**

Sol Leatherwood Solar LLC has notified the Department of Environmental Quality of its intent to submit the necessary documentation for a permit by rule for a small solar renewable energy project in Axton, in Henry County, pursuant to 9VAC15-60. Sol Leatherwood Solar is developing this 26-megawatt direct current/20-megawatt alternating current solar farm in Axton east of Mountain Valley Road, north of Jones Road. The system will be a ground-mounted array.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-

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4423, FAX (804) 698-4510, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **SolUnesco LLC Withdrawal of Notice of Intent for Small Solar Renewable Energy Project (Solar) Permit by Rule - Axton, Henry County**

SolUnesco LLC has withdrawn its Notice of Intent to submit the necessary documentation for a permit by rule for a small renewable energy (solar) project to be located in Axton in Henry County. The Notice of Intent was published in the Virginia Register of Regulations on November 14, 2016.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email [mary.major@deq.virginia.gov](mailto:mary.major@deq.virginia.gov).

### **VIRGINIA LOTTERY**

#### **Director's Orders**

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on January 30, 2018. The orders may be viewed at the Virginia Lottery, 600 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia.

#### Director's Order Number Fifty-Five (2018)

Virginia Lottery's Scratch Game 1894 "10x the Money" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Fifty-Six (2018)

Virginia Lottery's Scratch Game 1888 "\$30,000 Cash Party" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Fifty-Seven (2018)

Virginia Lottery's Scratch Game 1895 "100x the Money" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Fifty-Eight (2018)

Virginia Lottery's Scratch Game 1912 "Win Either \$50 or \$100" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Fifty-Nine (2018)

Virginia Lottery's Scratch Game 1914 "Find the 9's" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Sixty-Nine (2018)

Virginia Lottery's Scratch Game 1911 "Instant Jackpot" Final Rules for Game Operation (effective May 31, 2018)

#### Director's Order Number Seventy (2018)

Virginia Lottery's "Cooler and Cash" Promotion Final Rules to promote sales of the "Ford Expedition Plus \$100K" Scratcher (effective June 5, 2018)

#### Director's Order Number Seventy-One (2018)

Virginia Lottery's Ford Expedition Plus \$100K Promotion Final Rules for Operation (effective June 5, 2018)

#### Director's Order Number Seventy-Two (2018)

Certain Virginia Promotion; Participating Retailer Amendment.

In accordance with the authority granted by §§ 2.2-4002B (15) and 58.1-4006A of the Code of Virginia, I hereby give notice that the following Virginia Lottery Promotion: Mega Grocery Shopping Dash (47 2018) is amended as follows to remove the following retailers:

Giant Food (3061)

Giant Food #227 - 10100 Dumfries Road, Manassas

Giant Food #228 - 11200 Main Street, Fairfax

Giant Food #229 - 8074 Rolling Road, Springfield

Giant Food #231 - 2932 Chain Bridge Road, Oakton

Giant Food #232 - 5870 Kingstowne Blvd., Alexandria

Giant Food #237 - 25050 South Riding Plaza, Chantilly

Giant Food #242 - 5730 Edsall Road, Alexandria

Giant Food #243 - 317 Worth Avenue, Stafford

Giant Food #249 - 6980 Braddock Road, Annandale

Giant Food #250 - 635 Potomac Station Drive, Leesburg

Giant Food #251 - 1900 Abbey Road, Charlottesville

Giant Food #252 - 1000 E. Main Street, Purcellville

Giant Food #256 - 10346 Courthouse Road, Spotsylvania

Giant Food #257 - 7575 Linton Hall Road, Gainesville

Giant Food #261 - 3131 Duke Street, Alexandria

Giant Food #262 - 43330 Junction Plaza, Ashburn

Giant Food #740 - 5615 Stone Road, Centreville

Giant Food #741 - 5469 Mapledale Plaza, Dale City

Giant Food #743 - 3450 Washington Blvd., Arlington

Giant Food #744 - 5740 Union Mill Road, Clifton

Giant Food #745 - 13043 Lee Jackson Memorial Hwy., Fairfax

Giant Food #747 - 1450 North Point Village, Court Reston

Giant Food #748 - 2901-11 S. Glebe Road, Arlington

Giant Food #749 - 7137 Columbia Pike, Annandale  
Giant Food #753 - 2551 John Milton Drive, Herndon  
Giant Food #754 - 4309 Dale Blvd., Dale City  
Giant Food #756 - 8320 Old Keene Mill Road, Springfield

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Notice of Intent to Amend the Virginia State Plan For Medical Assistance

Pursuant to 42 CFR 440.386, the Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to seek approval from the Centers for Medicare and Medicaid Services (CMS) of a state plan amendment to establish an Alternative Benefit Plan (ABP) authorized under § 1937 of the Social Security Act for individuals aged 19 to 64 who are eligible for Medicaid pursuant to § 1902(a)(10)(A)(i)(VIII) of the Social Security Act.

CMS requires that DMAS develop an ABP for the Medicaid expansion population. DMAS developed an ABP that meets all of the federal requirements for the amount, duration, and scope of benefits. The benefits under the approved ABP will be available to all individuals eligible pursuant to § 1902(a)(10)(A)(i)(VIII) of the Social Security Act and will be delivered through managed care organizations. Beneficiaries may also receive services through the Medicaid fee-for-service program on a transitional basis. The ABP coverage will include essential health benefits (ambulatory services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, rehabilitation and habilitative services, prescription drugs, laboratory, preventive services, and pediatric services). Any service limits or cost sharing currently authorized under the approved Medicaid State Plan will apply to the ABP. The proposed ABP will include the full range of Early Periodic Screening, Diagnoses, and Treatment (EPSDT) Program benefits available under the Virginia State Plan for individuals under the age of 21.

DMAS is soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed state plan amendment to establish the ABP for individuals aged 19 to 64 who are eligible for Medicaid pursuant to § 1902(a)(10)(A)(i)(VIII) of the Social Security Act.

The state assures compliance with the provisions of § 5006(e) of the American Recovery and Reinvestment Act of 2009 related to Tribal populations. (There are no Indian Health Providers or Indian Health Services in the Commonwealth of Virginia.)

To request a copy of the ABP state plan amendment or a copy of this notice, contact Emily McClellan, Policy and Research Division, Department of Medical Assistance Services, 600

East Broad Street, Richmond, VA 23219, or email [emily.mcclellan@dmass.virginia.gov](mailto:emily.mcclellan@dmass.virginia.gov)

## STATE WATER CONTROL BOARD

### Proposed Enforcement Action for Certain Groundwater Withdrawal Users for Violations in Accomack and Northampton Counties

An enforcement action has been proposed for certain groundwater withdrawal users for violations of the Groundwater Management Act of 1992 that occurred in Accomack and Northampton Counties. A description of the proposed actions is available online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Lee Crowell will accept comments by email at [lee.crowell@deq.virginia.gov](mailto:lee.crowell@deq.virginia.gov) or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23219, from June 25, 2018, through July 25, 2018.

### Proposed Enforcement Action for Harbor Station Communities LLC Accomack and Northampton Counties

An enforcement action has been proposed for Harbor Station Communities LLC for violations of the State Water Control Law and regulations associated with the Potomac Shores development project in Dumfries, Virginia. The State Water Control Board proposes to issue a Consent Order to resolve violations associated with the Potomac Shores development project. A description of the proposed action is available at the DEQ office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Stephanie Bellotti will accept comments by email at [stephanie.bellotti@deq.virginia.gov](mailto:stephanie.bellotti@deq.virginia.gov) or postal mail at Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from June 26, 2018, through July 26, 2018.

## ERRATA

### BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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

Publication: 34:18 VA.R. 1744-1961 April 30, 2018

Correction to Final Regulation:

Page 1941, 13VAC5-63-470:

replace lines 3 through 8 with:

"~~C. D.~~ [ ~~103.2.1~~ 103.2.2 ] Maintenance of nonrequired fire protection systems. Nonrequired fire protection systems shall be maintained to function as originally installed. If any such systems are to be reduced in function or discontinued, approval shall be obtained from the building official in accordance with Section 103.8.1 of the VCC."

subsection D, delete "D. 103.2.2" and insert "[ ~~D.~~ E. 103.2.3"

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subsection E, delete "E." and insert "[ E. F. ]"

subsection F, delete "F." and insert "[ F. G. ]"

VA.R. Doc. No. R16-4664; Filed June 7, 2018

### VIRGINIA CODE COMMISSION

#### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <https://commonwealthcalendar.virginia.gov>.

**Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed:** A table listing regulation sections that have been amended, added, or repealed in the *Virginia Register of Regulations* since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumulatab.pdf>.

**Filing Material for Publication in the *Virginia Register of Regulations*:** Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the *Virginia Register of Regulations*. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.