



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

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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**

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## **EMERGENCY REGULATIONS**

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at [register.dls.virginia.gov](http://register.dls.virginia.gov).

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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; **James A. "Jay" Leftwich**, Vice Chair; **Ryan T. McDougle**; **Nicole Cheuk**; **Rita Davis**; **Leslie L. Lilley**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Charles S. Sharp**; **Samuel T. Towell**; **Malfourd W. Trumbo**.

Staff of the Virginia Register: **Karen Perrine**, Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Nikki Clemons**, 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 2020 through May 2021

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
36:21	May 20, 2020	June 8, 2020
36:22	June 3, 2020	June 22, 2020
36:23	June 17, 2020	July 6, 2020
36:24	July 1, 2020	July 20, 2020
36:25	July 15, 2020	August 3, 2020
36:26	July 29, 2020	August 17, 2020
37:1	August 12, 2020	August 31, 2020
37:2	August 26, 2020	September 14, 2020
37:3	September 9, 2020	September 28, 2020
37:4	September 23, 2020	October 12, 2020
37:5	October 7, 2020	October 26, 2020
37:6	October 21, 2020	November 9, 2020
37:7	November 4, 2020	November 23, 2020
37:8	November 16, 2020 ( <b>Monday</b> )	December 7, 2020
37:9	December 2, 2020	December 21, 2020
37:10	December 14, 2020 ( <b>Monday</b> )	January 4, 2021
37:11	December 28, 2020 ( <b>Monday</b> )	January 18, 2021
37:12	January 13, 2021	February 1, 2021
37:13	January 27, 2021	February 15, 2021
37:14	February 10, 2021	March 1, 2021
37:15	February 24, 2021	March 15, 2021
37:16	March 10, 2021	March 29, 2021
37:17	March 24, 2021	April 12, 2021
37:18	April 7, 2021	April 26, 2021
37:19	April 21, 2021	May 10, 2021

\*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 COUNSELING

#### Initial Agency Notice

**Title of Regulation: 18VAC115-60. Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners.**

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

Name of Petitioner: James Christmas.

Nature of Petitioner's Request: To amend 18VAC115-60-50 to allow persons who are licensed as clinical social workers to be licensed as substance abuse treatment practitioners without examination.

Agency Plan for Disposition of Request: The petition will be published in the Virginia Register of Regulations with a comment period from May 11, 2020, to June 10, 2020. All comments will be considered by the board at its next meeting scheduled for August 21, 2020.

Public Comment Deadline: June 10, 2020.

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

VA.R. Doc. No. R20-36 Filed April 20, 2020, 12:10 p.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### DEPARTMENT OF MINES, MINERALS AND ENERGY

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **4VAC25-11, Public Participation Guidelines; 4VAC25-60, Rules and Regulations Governing the Installation and Use of Automated Temporary Roof Support Systems; 4VAC25-70, Regulations Governing Disruption of Communications in Mines; and 4VAC25-90, Regulations Governing the Use of Diesel-Powered Equipment in Underground Coal Mines.** The review of these regulations will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether these regulations should be repealed, amended, or retained in their current forms. Public comment is sought on the review of any issue relating to each 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.

Public comment begins May 11, 2020, and ends June 1, 2020.

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 findings of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Michael Skiffington, Regulatory Coordinator, Department of Mines, Minerals and Energy, 1100 Bank Street, 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3212, FAX (804) 692-3237, TDD (800) 828-1120, or email [mike.skiffington@dmme.virginia.gov](mailto:mike.skiffington@dmme.virginia.gov).

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## TITLE 9. ENVIRONMENT

### STATE AIR POLLUTION CONTROL BOARD

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia,

**9VAC5-170, Regulation for General Administration,** is undergoing a periodic review and a small business impact review. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

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.

Public comment begins May 11, 2020, and ends June 1, 2020.

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 findings of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Gary E. Graham, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 689-4103, FAX (804) 698-4319, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

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## TITLE 16. LABOR AND EMPLOYMENT

### DEPARTMENT OF LABOR AND INDUSTRY

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Labor and Industry conducted a periodic review and a small business impact review of **16VAC15-40, Virginia Hours of Work for Minors,** and determined that this regulation should be retained in its current form. The department is publishing its report of findings dated April 17, 2020, to support this decision.

The commissioner retained this regulation as is. The regulation is necessary to protect the health, safety, and welfare of minors in Virginia by establishing maximum limits on the number of hours that minors younger than sixteen years of age may work. The regulation also protects minors by prohibiting inappropriate child labor conditions and by assuring the minor's work does not interfere with school attendance. The regulation is clearly written and easily understandable.

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## Periodic Reviews and Small Business Impact Reviews

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This regulation should have minimal economic impact on small businesses. The regulation also offers clarity and guidance for small businesses that employ minors younger than sixteen years of age. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. This regulation was last reviewed four years ago. There have not been significant changes in technology, economic conditions, or other factors in the area affected by the regulation since it became effective. The department has determined that retaining the regulation without amendment is consistent with the stated objectives of applicable law and is the most effective way to minimize the economic impact of regulations on small businesses.

Contact Information: Holly Trice, Attorney, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-2641, FAX (804) 786-8418, or email [holly.trice@doli.virginia.gov](mailto:holly.trice@doli.virginia.gov).

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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 2. AGRICULTURE

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

#### Final Regulation

REGISTRAR'S NOTICE: The agency is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 3.2-6542 of the Code of Virginia, which excludes actions of the Department of Agriculture and Consumer Services relating to the establishment, operation, and maintenance of the Commonwealth of Virginia Dangerous Dog Registry under § 3.2-6542.

Title of Regulation: **2VAC5-620. Regulations Pertaining to the Establishment of the Dangerous Dog Registry (amending 2VAC5-620-20, 2VAC5-620-30, 2VAC5-620-50, 2VAC5-620-70 through 2VAC5-620-110; repealing 2VAC5-620-10, 2VAC5-620-40).**

Statutory Authority: §§ 3.2-6540 and 3.2-6542 of the Code of Virginia.

Effective Date: May 11, 2020.

Agency Contact: Dr.Carolynn Bissett, Program Manager, Office of Veterinary Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, TTY (800) 828-1120, or email [carolynn.bissett@vdacs.virginia.gov](mailto:carolynn.bissett@vdacs.virginia.gov).

#### Summary:

*The amendments (i) reduce to 30 days the amount of time an owner of an animal found to be a dangerous dog has to obtain a dangerous dog registration certificate pursuant to Chapter 396 of the 2017 Acts of Assembly and (ii) simplify the regulation and eliminate redundancies.*

#### CHAPTER 620

#### REGULATIONS REQUIREMENTS PERTAINING TO THE ESTABLISHMENT OF THE DANGEROUS DOG REGISTRY

##### Part I

##### Purpose and Applicability; Definition

#### **2VAC5-620-10. Purpose and applicability. (Repealed.)**

~~The purpose of this regulation is to establish the procedures and requirements for registration of dangerous dogs with local jurisdictions and the Virginia Dangerous Dog Registry. This regulation describes the responsibilities of owners of~~

~~dangerous dogs; local animal control and law enforcement officers; and the State Veterinarian.~~

#### **2VAC5-620-20. Definition.**

The following ~~word and~~ term when used in this regulation shall have the following meaning unless the context clearly indicates otherwise:

"Dangerous dog" means a canine or canine crossbreed that has been found to be a dangerous dog by a court of law pursuant to § 3.2-6540 of the Code of Virginia.

##### Part II

##### Registration, Renewal, and Notifications

#### **2VAC5-620-30. Initial registration requirements ~~for owners of dangerous dogs.~~**

~~A. The owner of a dog adjudicated to be dangerous shall within 45 calendar days of the finding by a court of competent jurisdiction, unless the~~ Unless a dangerous dog has been euthanized or moved out of state, within 30 days of a finding by a court of competent jurisdiction that an animal is a dangerous dog, the animal control officer shall:

~~1. Provide the local animal control officer the following information required to obtain a Dangerous Dog Registration Certificate~~ Provide the owner of the dangerous dog with a copy of §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and this chapter.

~~2. Collect from the owner of the dangerous dog and verify the accuracy of all of the information required by §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and this chapter, including the following:~~

- a. The names, addresses, and telephone numbers of all owners;
- b. All information necessary to locate the owners and the dog at all times;
- c. Identification verifying that all owners of the dangerous dog are 18 years of age or older or the identification of the custodial parent or legal guardian of any owner ~~under the age of younger than 18 years of age;~~
- d. The acts that resulted in the dog being designated as dangerous;
- e. The parties to the proceeding wherein the dog was found to be dangerous, the docket number and the court where the case was tried, and the requirements imposed by the judge on the owners of the dog;

- f. The address where the dangerous dog is maintained and the name of the owner residing at that address;
- g. The dangerous dog's name, sex, age, weight, primary breed, secondary breed, color, and markings;
- h. Two photographs of the dangerous dog head to paw, one front view and one side view ~~head to paw~~;
- i. The number of the dog license issued by the locality;
- j. Verification that the dangerous dog has a current rabies vaccination, including expiration date, name, address, and telephone number of the veterinary practice that administered the vaccine and issued the rabies tag number;
- k. Documentation from a licensed veterinarian that the dangerous dog has been surgically neutered or spayed to include date of surgery, name of the veterinarian performing the surgery, and the practice name, address, and telephone number;
- l. Evidence that the dangerous dog is or will be confined in a proper enclosure or is or will be confined inside the owner's residence or is ~~and or~~ will be muzzled and confined in the owner's fenced-in yard until a proper enclosure is constructed;
- m. Evidence that the residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property;
- n. Documentation that the dangerous dog has been identified permanently by means of a ~~tattoo or~~ electronic implantation ~~or both~~, including the name, practice name, address, and telephone number of the veterinary practice that performed the procedure, the identification ~~number(s)~~ number, and the microchip company;
- o. A copy of the liability insurance coverage from a company licensed to do business in Virginia in the amount of at least \$100,000 that covers the owners for damages caused by dog bites. In lieu of liability insurance, the owner may obtain and maintain a bond in surety in the amount of \$100,000. The bond shall be made to the chief administrative officer of the locality where one of the owners resides or where the dangerous dog is maintained for the benefit of those damaged by the bite of a the dangerous dog. The form of the bond should be approved by the local jurisdiction's attorney; and
- p. A signed statement of compliance with the provisions of the order finding the dog dangerous.

~~2. Obtain~~ 3. Complete the Dangerous Dog Registration Form and Registration Certificate with the owner. The Dangerous Dog Registration Form and Registration Certificate shall include all information necessary to ensure

continued compliance with §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and this chapter.

~~4. Provide the owner with~~ a Dangerous Dog Registration Certificate from the local animal control officer or treasurer ~~for~~. The owner shall pay a fee of \$150 in addition to other fees that may be authorized by law to obtain this certificate.

~~3. Obtain~~ 5. Provide the owner a uniformly designed Virginia Dangerous Dog tag from the local animal control officer or treasurer that has a unique identification number and identifies the animal as a Virginia dangerous dog.

~~4. 6.~~ Affix the tag to the animal's collar and ~~ensure that advise the owner that the animal wears~~ must wear the collar and tag at all times.

7. Enter all required information to the Virginia Dangerous Dog Registry within five business days of the completion of the registration certificate and collection of the associated fee.

B. The owner of the dangerous dog shall retain the original Dangerous Dog Registration Certificate so long as the dangerous dog remains in his possession.

**~~2VAC5-620-40. Initial registration requirements for local animal control officers. (Repealed.)~~**

~~The local animal control officer, upon receipt of all information from the owner as required under 2VAC5-620-30 A, shall then certify a dog found dangerous by a court of competent jurisdiction within 45 calendar days of such finding. The local animal control officer shall:~~

- ~~1. Provide the owner with a copy of the law and this regulation.~~
- ~~2. Verify the owner has submitted all information required by law and this regulation.~~
- ~~3. Fill out the Dangerous Dog Registration Certificate with the owner.~~
- ~~4. Transmit electronically the Dangerous Dog Registration Certificate information to the State Veterinarian within five business days of certification.~~
- ~~5. Provide the owner with a Dangerous Dog Registration Certificate. The fee for the certificate shall be \$150 payable to the treasurer of the locality, in addition to other fees that may be authorized by law.~~
- ~~6. Provide the owner with a Dangerous Dog Renewal Registration Form from the Dangerous Dog Registry website.~~
- ~~7. Provide the owner or cause the treasurer of the locality to provide the owner with a uniformly designed Virginia Dangerous Dog tag with a unique identification number.~~

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# Regulations

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## **2VAC5-620-50. Renewal registration procedures and requirements.**

The following shall be the procedures and requirements for the annual renewal of registration in the dangerous dog registry:

1. The State Veterinarian shall mail each owner of a dangerous dog a reminder at least 60 calendar days prior to January 31 of each year that the Dangerous Dog Registration Certificate needs to be renewed. A copy shall be sent to the animal control officer of the ~~political subdivision~~ jurisdiction where the dangerous dog is maintained.
2. By January 31 of each year, until the dangerous dog is deceased, ~~each~~ the owner of a dangerous dog shall renew the Dangerous Dog Registration Certificate for a fee of \$85 by submission of a Dangerous Dog Renewal Form to the local animal control officer.
3. The Dangerous Dog Renewal Form shall include all information necessary to ensure continued compliance with §§ 3.2-6540 and 3.2-6542 of the Code of Virginia and this chapter.
4. The local animal control officer shall verify all information submitted by the owner on the Dangerous Dog Renewal Form and ~~transmit electronically~~ enter the information to the Dangerous Dog Registry ~~maintained by the State Veterinarian~~ within five business days of such verification.
5. The owner of any dog found to be dangerous by a court of competent jurisdiction within ~~60~~ 90 calendar days prior to January ~~31~~ 1 shall be exempt from the first annual renewal registration and the associated fee.

## **2VAC5-620-70. Dangerous dog tag.**

The following shall be the procedures and requirements pertaining to the dangerous dog tag:

1. The State Veterinarian shall provide each jurisdiction a sequential batch of uniformly designed Virginia Dangerous Dog tags. Localities shall request additional tags from the State Veterinarian, as necessary.
2. The following information shall be inscribed on the front of the Virginia Dangerous Dog tag: "Virginia Dangerous Dog," and a unique dangerous dog identifying number. The back of the tag shall have inscribed return information: "If found contact the State Veterinarian's Office at (804) 692-0601."
3. The unique Virginia Dangerous Dog tag identification number shall remain active in the Dangerous Dog Registry until proof of death of the animal or until a new Virginia Dangerous Dog tag is issued.

4. The owner of a dangerous dog shall notify the local animal control officer within 10 calendar days of a lost Virginia Dangerous Dog tag.

5. The local animal control officer shall issue a new Virginia Dangerous Dog tag and identification number to the owner and ~~electronically transmit this information to the State Veterinarian~~ update the tag information in the Dangerous Dog Registry.

## **2VAC5-620-80. Notification requirements for dangerous dog incidents.**

A. At any time during the adjudication process or after a dog has been found to be a dangerous dog by a court of competent jurisdiction, the dog's owner shall notify the local animal control officer within 24 hours if any of the following occur:

1. The dog is loose or unconfined.
2. The dog bites or attacks a person or another animal.
3. There is a complaint that the dog bit or attacked a person or another animal.
4. Any claims are made or lawsuits are brought as a result of any attack by the dog.
5. The dog is sold, given away, or dies.

B. The local animal control officer who receives notification in accordance with subsection A of this section shall ~~promptly notify~~ update the State Veterinarian of Dangerous Dog Registry with these facts ~~by electronic mail~~ within five business days of receipt of such notification.

## **2VAC5-620-90. Notification requirements for change of address or contact information; updated information.**

If, at any time during the adjudication process or after an animal has been found to be a dangerous dog by a court of competent jurisdiction, there is a change in the address of the owner or a change in the address where the dangerous dog is maintained (~~within or outside of the Commonwealth of Virginia~~), the following notification shall occur within 10 days:

1. If the owner moves the dangerous dog to a new address within the same jurisdiction, the owner shall submit a Dangerous Dog Renewal Form to the local animal control officer indicating the new address. The animal control officer will enter the new address into the Dangerous Dog Registry within five business days of notification.
2. If the owner moves the dangerous dog to a different ~~local~~ Virginia jurisdiction, the owner shall submit a Dangerous Dog Renewal Form to both the local animal control officer in the new jurisdiction to which the animal has moved and to the animal control officer in the ~~former~~ jurisdiction from which the animal has moved.

~~3. a.~~ The local animal control officer of the jurisdiction ~~of the old address~~ from which the animal has moved shall initiate a jurisdiction transfer in the Dangerous Dog Registry within five business days of notification and shall verify that the local animal control officer of the ~~new jurisdiction to which the dog has received~~ moved is in receipt of the Dangerous Dog Renewal Form. If the form has not been received, ~~he~~ the local animal control officer of the jurisdiction from which the animal has moved shall provide any information necessary to contact the owner of the dangerous dog.

~~4. b.~~ The local animal control officer of the ~~new jurisdiction to which the animal has been moved~~ shall ~~electronically submit notice of the change and verification of~~ verify compliance with §§ 3.2-6540 and 3.2-6542 of the Code of Virginia ~~to the State Veterinarian and this chapter and make any necessary changes to information in the Dangerous Dog Registry.~~

~~5. The 3.~~ If the owner moves the dangerous dog to a locality outside of Virginia, the owner shall notify submit a Dangerous Dog Renewal Form to the local animal control officer for the jurisdiction where the dangerous dog is maintained of any change in or updating of information required by the law or regulation in the jurisdiction from which the animal has moved. The local animal control officer shall ~~note the changed information or updates on the Dangerous Dog Renewal Form and electronically submit such information to the State Veterinarian~~ mark the dog as inactive in the Dangerous Dog Registry and inform the locality to which the animal has moved within five business days of notification.

~~6. 4.~~ There shall be no charge for submitting updated information between registration renewals.

Part III

Virginia Dangerous Dog Registry

**2VAC5-620-100. Operation and maintenance of the Dangerous Dog Registry.**

The following shall be the procedures and requirements for the operation and maintenance of the Dangerous Dog Registry:

1. The State Veterinarian shall operate and maintain a website to be named the Virginia Dangerous Dog Registry.
2. A personal identification number (PIN) shall be assigned by the State Veterinarian to each local jurisdiction for administrative access to the Dangerous Dog Registry.
3. All information in the Dangerous Dog Registry shall be available to the State Veterinarian and local jurisdictions via the website.
4. The address of the owner, name and breed of the dangerous dog, acts which resulted in the ~~animal~~ dog being

found dangerous, and information necessary to access court records of the adjudication for each dangerous dog shall be available to the public via the website.

5. Any funds collected for the Dangerous Dog Registry shall be used by the State Veterinarian to maintain the Dangerous Dog Registry and website.

~~All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.2-6556 of the Code of Virginia.~~

~~The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous and vicious dogs provided, however, that no locality may impose a felony penalty for violation of such local ordinances.~~

**2VAC5-620-110. Local treasurers to remit a portion of fees collected to the State Veterinarian.**

The State Veterinarian will send each locality an invoice ~~within five business days of July by January 1~~ for fees due for each dog ~~currently listed~~ registered or renewed in the Dangerous Dog Registry within the locality during the previous calendar year. ~~Local treasurers~~ Each local treasurer shall remit to the State Veterinarian by ~~July~~ January 31 of each year \$90 for each dangerous dog for which an initial Dangerous Dog Registration Certificate was issued and \$25 for each dangerous dog for which a Dangerous Dog Renewal Registration Form was issued within ~~their~~ the local treasurer's locality during the previous fiscal year. ~~Localities~~ A locality will not be liable for the portion of the fee due to the State Veterinarian if ~~they have~~ it has not collected the fee from the dangerous dog owner, provided a good faith effort was made to collect such fee.

VA.R. Doc. No. R20-6272; Filed April 14, 2020, 8:14 a.m.

**TITLE 4. CONSERVATION AND NATURAL RESOURCES**

**MARINE RESOURCES COMMISSION**

**Final Regulation**

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

Title of Regulation: **4VAC20-1270. Pertaining to Atlantic Menhaden (amending 4VAC20-1270-10 through 4VAC20-1270-60; adding 4VAC20-1270-35).**

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# Regulations

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

Effective Date: May 1, 2020.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Fort Monroe, VA 23651, telephone (757) 247-2248, or email [jennifer.farmer@mrc.virginia.gov](mailto:jennifer.farmer@mrc.virginia.gov).

Summary:

*The amendments establish management measures for the Atlantic menhaden fishery, including (i) allocation, accountability, overages, restrictions, closures, and state-to-state transfers for landing quotas and (ii) entry criteria, individual transferable quota systems, seasons, and reporting requirements for different sectors of the fishery. Chapter 201 of the 2020 Acts of Assembly, effective March 8, 2020, transferred the management authority for Atlantic menhaden from the Virginia General Assembly to the Virginia Marine Resources Commission.*

**4VAC20-1270-10. Purpose.**

The purpose of this chapter is to ~~comply with the Interstate Fishery Management Plan for Atlantic menhaden~~ establish management measures for a sustainable Atlantic menhaden fishery and to provide fair and equitable allocation to the sectors.

**4VAC20-1270-20. Definitions.**

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

"Atlantic menhaden" or "menhaden" means any fish of the species *Brevoortia tyrannus*.

"Bay Cap" means the annual total allowable commercial landings by volume (pounds or metric tons) from the Chesapeake Bay by the purse seine menhaden reduction sector.

"Chesapeake Bay" means the territorial waters of Virginia lying west of the Chesapeake Bay Bridge-Tunnel.

"~~Nonpurse~~ Non-purse seine menhaden bait sector" means those vessels that do not utilize a purse seine net to harvest menhaden and land menhaden only for use as bait in other fisheries.

"Purse seine menhaden bait sector" means those vessels that utilize a purse seine net to land menhaden only for use as bait in other fisheries.

"Purse seine menhaden reduction sector" means those vessels that utilize a purse seine net to land menhaden only at a qualified menhaden processing factory as ~~described by § 28.2-400.3 of the Code of Virginia.~~

"Qualified menhaden processing factory" means a facility located in Virginia that has processed at least 100,000 metric tons of menhaden in each of the years 2009, 2010, and 2011.

"Stationary multi-species gear" means pound nets, anchored or staked gill nets, fishing weirs, floating fish traps, and fyke nets.

**4VAC20-1270-30. Total allowable landings for menhaden; allocation, accountability, ~~and~~ overages, restrictions, closures, and state-to-state transfers.**

~~A. In accordance with § 28.2-400.2 of the Code of Virginia the total~~ Total allowable commercial landings for menhaden in ~~2017 and 2018 in metric tons~~ 2020 shall be equivalent to 372,443,990 pounds, and that total amount of allowable landings shall be allocated as quotas among three sectors of the menhaden fishery, as described below, pursuant to ~~§ 28.2-400.3 of the Code of Virginia.~~ The purse seine menhaden reduction sector is allocated a quota of 335,359,214 pounds of allowable menhaden landings; the purse seine menhaden bait sector a ~~31,204,766 pound~~ 31,210,806 pound quota of allowable menhaden landings; and the nonpurse seine menhaden bait sector a ~~5,880,010 pound~~ 5,884,615 pound quota of allowable menhaden landings (168,937.75 metric tons) or 78.66% of the annual total allowable catch (TAC) set by the Atlantic States Marine Fisheries Commission.

B. Total amount of allowable commercial landings in subsection A of this section shall be allocated as quotas among three sectors of the menhaden fishery in proportion to each sector's share of average landings from 2002 through 2011, as described in subdivisions 1, 2, and 3 of this subsection.

1. The purse seine menhaden reduction sector shall be allocated a quota of 335,348,569 pounds or 90.04% of allowable commercial menhaden landings.

2. The purse seine menhaden bait sector shall be allocated a quota of 31,210,806 pounds or 8.38% of allowable commercial menhaden landings.

3. The non-purse seine menhaden bait sector shall be allocated a quota of 5,884,615 pounds or 1.58% of allowable commercial menhaden landings.

C. If the total allowable commercial landings specified in subsection A of this section are exceeded in any calendar year, the total allowable commercial landings for the subsequent calendar year ~~will~~ shall be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in subsection ~~A~~ B of this section, with the exception of the non-purse seine menhaden bait sector, which shall move into the incidental catch provision outlined in subdivision F 3 of this section.

D. Any portion of the 1.0% of the coastwide total allowable catch set aside by the Atlantic States Marine Fisheries

Commission for episodic events that is unused as of September 1 of any calendar year shall be returned to Virginia and other states according to allocation guidelines established by the Atlantic States Marine Fisheries Commission. Any such return of this portion of the coastwide total allowable catch to Virginia shall increase the total allowable commercial landings for that year.

E. It shall be unlawful for any person to take or catch menhaden using a purse seine net except in accordance with the seasons, areas, and gear restrictions as set forth in §§ 28.2-409 and 28.2-410 of the Code of Virginia.

F. It shall be unlawful to harvest or land in Virginia any menhaden after the commissioner projects and announces that 100% of the total allowable landings for any sector has been taken. The commissioner may reopen a fishery sector if, after all reports as described in 4VAC20-1270-60 have been received, the portion of the total allowable catch has not been harvested by that sector.

1. The commissioner shall announce the date of closure when the total allowable landings for the purse seine menhaden reduction sector is projected to be taken.

2. The commissioner shall announce the date of closure when the total allowable landings for the purse seine menhaden bait sector is projected to be taken.

3. The commissioner shall announce the date of closure when the total allowable commercial landings for the non-purse seine menhaden bait sector is projected to be taken. Once this closure is announced, any person licensed in the non-purse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per calendar day as bycatch. Any two persons licensed in the non-purse seine menhaden bait sector may possess and land up to 12,000 pounds of menhaden bycatch when working together from the same vessel using stationary multi-species gear per the Atlantic States Marine Fisheries Commission incidental catch provision.

G. The commissioner may request a transfer of menhaden quota from any other state that is a member of the Atlantic States Marine Fisheries Commission. If Virginia receives a transfer of menhaden quota in any calendar year from another state, the total allowable catch for that calendar year shall increase by the amount of transferred quota. It shall be unlawful for this quota transfer to be applied to the Bay Cap quota as described in 4VAC20-1270-35. The commissioner may transfer menhaden quota to another state only if there is unused menhaden quota.

**4VAC20-1270-35. Chesapeake Bay purse seine menhaden reduction fishery.**

A. The annual total allowable Bay Cap landings from the Chesapeake Bay by the purse seine menhaden reduction sector in 2020 shall not exceed 36,196 metric tons

(79,798,520 pounds) and shall be subject to annual adjustment for any overages as specified in subdivision 3 of this subsection.

1. It shall be unlawful for any transfers of quota from other states to be applied to the Bay Cap to reduce any overages.

2. It shall be unlawful for any amount of unlanded menhaden quota under the Bay Cap each calendar year to be rolled over or applied as credit for any subsequent calendar years.

3. Any annual menhaden landings in excess of the current calendar year Bay Cap shall be deducted from only the subsequent calendar year Bay Cap.

B. When it is projected that the purse seine menhaden reduction sector has met the annual menhaden Bay Cap in the Chesapeake Bay, based on mandatory daily landings reports, the commissioner shall promptly notify the industry announcing the date of closure.

C. It shall be unlawful for any person to harvest menhaden by purse seine for reduction purposes from the Chesapeake Bay for the remainder of that calendar year after the commissioner has announced the date of closure.

**4VAC20-1270-40. Purse seine menhaden bait sector; limited entry criteria; individual transferable quota system; and season.**

A. To qualify for limited entry to the purse seine menhaden bait sector, the applicant must person shall:

1. Have held a purse seine license in 2011 and landed menhaden in Virginia in 2009, 2010, and 2011, while using purse seine gear to harvest menhaden in one of those three years; and

2. Provide the commission receipts and landings reports or other requested reports as proof of landings and gear usage to demonstrate that the criteria described in subdivision 1 of this subsection have been met.

B. The commission shall establish an individual transferable quota (ITQ) system for each purse seine menhaden bait licensee ~~that~~ who meets the limited entry requirements in subsection A of this section. The quota for this sector will be allocated according to each qualified licensee's rounded percentage share of the average of the 2007 through 2011 menhaden landings.

C. Each licensee qualified under the ITQ system may transfer quota to another licensee's ITQ upon approval of the commissioner.

D. The season for vessels with a gross weight of less than 70 tons that use purse seine nets to take or catch menhaden for purposes other than use as fish meal or oil shall be from the first Monday in March up to, but not including, the first Monday in May.

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# Regulations

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## **4VAC20-1270-50. ~~Nonpurse~~ Non-purse seine menhaden bait sector quota; allocation ~~and bycatch provisions.~~**

A. The ~~commercial nonpurse~~ non-purse seine menhaden bait sector's quota allocation shall be by gear type in proportion to share for each gear type of average landings from 2002 through 2011 and are as follows:

1. Cast net: ~~2,261~~ 0.04% or ~~2,354~~ pounds.
2. Dredge: ~~3,595~~ 0.06% or ~~3,531~~ pounds.
3. Fyke net: ~~2,477~~ 0.04% or ~~2,354~~ pounds.
4. Gill net: ~~1,781,986~~ 30.31% or ~~1,783,627~~ pounds.
5. Pound net: ~~3,997,201~~ 67.98% or ~~4,000,361~~ pounds.
6. Seine Haul seine: ~~23,550~~ 0.4% or ~~23,538~~ pounds.
7. Trawl: ~~68,940~~ 1.17% or ~~68,850~~ pounds.

B. Pursuant to ~~§ 28.2-400.4~~ of the Code of Virginia, ~~once the commissioner announces the date of closure for the nonpurse seine bait fishery, any person licensed in the nonpurse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per day.~~

## **4VAC20-1270-60. Reporting requirements by menhaden fishery sector.**

A. Each licensee of any purse seine vessel ~~that who~~ harvests menhaden ~~must submit~~ shall complete a Captain's Daily Fishing Report ~~to the commission~~ on each ~~nonweekend non-weekend~~ or ~~nonholiday non-holiday~~ day that either purse seine sector is open for harvest. The Captain's Daily Fishing Report is produced by the National Marine Fisheries Service and provides preliminary estimates of harvest. Pursuant to § 28.2-204 of the Code of Virginia, those same licensees ~~must~~ shall submit to the commission ~~actual the~~ Captain's Daily Fishing Reports in addition to summarized weekly harvest reports that include vessel name and exact weight of menhaden landed, in pounds, by Wednesday of the following week. ~~Once 97% of either purse seine sector's quota is projected and announced to have been met, each licensee of that purse seine sector must provide daily harvest totals to the commission's Interactive Voice Recording System.~~

1. Any menhaden landed by a limited entry purse seine menhaden bait licensee at a qualified menhaden processing factory, as indicated on the mandatory daily landings reports, shall be attributed to the purse seine menhaden reduction sector quota.

2. Once 97% of either purse seine sector's quota is projected and announced to have been taken, each licensee of that purse seine sector shall provide daily harvest totals to the commission's Interactive Voice Recording System.

B. The ~~nonpurse non-purse~~ seine menhaden ~~commercial~~ bait sector shall submit daily reports according to the schedule and reporting requirements established by ~~4VAC20-610-10, Pertaining to Commercial Fishing and Mandatory Harvest Reporting~~ 4VAC20-610.

C. ~~When the commissioner announces that 90% of the nonpurse seine menhaden bait quota has been reached, each harvester of this sector is required to report his previous 10 days of landings to the commission's Interactive Voice Recording System and must continue to report his additional landings every 10 days until it is announced that the nonpurse seine bait quota has been attained. More frequent reporting is permissible. The commission may also implement other harvest conservation measures such as trip limits.~~

VA.R. Doc. No. R20-6362; Filed April 28, 2020, 11:20 a.m.

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## TITLE 8. EDUCATION

### STATE BOARD OF EDUCATION

#### Fast-Track Regulation

Title of Regulation: **8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-110, 8VAC20-131-430).**

Statutory Authority: §§ 22.1-16 and 22.1-253.13 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: June 10, 2020.

Effective Date: June 25, 2020.

Agency Contact: Zachary Robbins, Director of Policy, Department of Education, 101 North 14th Street, Richmond, VA 23219, telephone (804) 225-2092, or email [zachary.robbs@doe.virginia.gov](mailto:zachary.robbs@doe.virginia.gov).

Basis: The State Board of Education's authority to establish graduation requirements through its Standards of Accreditation is established in §§ 22.1-253.13:3 and 22.1-253.13:4 of the Code of Virginia.

Purpose: Comprehensive revisions to the Regulations Establishing Standards for the Accreditation of Public Schools in Virginia, more commonly referred to as the Standards of Accreditation (SOA), became effective for the 2018-2019 academic year. One component of these revisions changed the availability of locally-awarded verified credits, which provide students the opportunity to receive a verified credit in a course that they have passed but failed the related end-of-course Standards of Learning test twice within a narrow margin. To receive a locally awarded verified credit, the student must take the test twice, score between 375 and

399 on one of the attempts, and demonstrate achievement and mastery in the academic content through a local appeal process.

Comprehensive revisions to the SOA were approved through the Administrative Process Act and established inequitable opportunities to earn locally-awarded verified credits for students who would be attending high school at the same time; that is students who entered the ninth grade prior to the 2018-2019 school year who struggled to pass either the English or mathematics end-of-course test could not earn locally awarded verified credits in English or mathematics, while students entering the ninth grade beginning in the 2018-2019 school year would have access to locally awarded verified credits in those subjects.

To provide parity among these high school student cohorts, and to help current students earn their diplomas for graduation in the spring of 2018, the board adopted emergency regulations to extend the availability of a locally awarded verified credit to English and mathematics for students who entered the ninth grade prior to the 2018-2019 school year. In addition, the board's guidance document governing the award of locally awarded verified credit was updated to extend the use of locally awarded verified credits in English and mathematics for these students.

The emergency regulations that were adopted by the board became effective May 9, 2019, and expire on November 8, 2019. These fast-track rulemaking provisions make the emergency provisions permanent.

Rationale for Using Fast-Track Rulemaking Process: This regulatory action is expected to be noncontroversial because the emergency regulation that became effective May 9, 2018, is currently being implemented and has not generated any public comment since being adopted. The changes proposed by this fast-track rulemaking are substantially the same as those of the emergency regulations.

Substance: The proposed changes allow all students to access locally awarded verified credits in English, mathematics, science, and history and social science in accordance with State Board of Education regulations and guidance.

For students who entered the ninth grade for the first time prior to the 2018-2019 school year, the existing regulations make locally awarded verified credits available only for science and history and social science. Under the existing emergency regulations, those students may now be awarded locally awarded verified credits in English, mathematics, science, and history and social science like their peers who entered the ninth grade in 2018-2019 and thereafter.

Issues: The advantages to the public and the Commonwealth of these revisions include providing parity among high school student cohorts and helping students earn their high school diplomas. There are no disadvantages to the public, the agency, or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Board of Education (Board) proposes to allow students who entered the ninth grade prior to the 2018-2019 school year to be awarded locally awarded verified credits in English and mathematics when certain Board-established criteria are met.

Background. Locally-awarded verified credits provide students the opportunity to receive verified credits required for graduation in a course that they have passed but failed the related end-of-course Standards of Learning test. To receive a locally awarded verified credit, a student must fail the end-of-course test twice, scoring between 375 and 399 on one of the attempts, and demonstrate achievement and mastery in the academic content area through an appeal that is reviewed by a local school division-established committee.

An earlier regulatory action, which became effective on January 11, 2018,<sup>2</sup> enabled students who entered ninth grade at the beginning of the 2018-2019 school year or later to be awarded locally awarded verified credits in English and mathematics when certain Board-established criteria are met. Students could already receive locally awarded verified credits in science and history and social science.

Subsequently, the Board promulgated an emergency regulation to enable students who entered the ninth grade prior to the 2018-2019 school year to also be able to earn locally-awarded verified credits in English and mathematics in addition to science and history and social science when the same Board-established criteria are met. The emergency regulation became effective on May 9, 2018, and expires on November 8, 2019. The Board now proposes to make the emergency regulation permanent.

Estimated Benefits and Costs. The proposed amendment does not appear to introduce any costs, and confers benefits on an additional group of students. The earlier regulatory action already allowed students who entered ninth grade at the beginning of the 2018-2019 school year or later to earn locally awarded verified credits; the current regulation expands this benefit to students who entered the ninth grade prior to the 2018-2019 school year. This expansion is equitable and benefits the additional group of students by reducing a barrier to graduation.

Businesses and Other Entities Affected. The proposed amendment affects the 132 local school divisions. No school division is disproportionately affected. The proposed amendment does not appear to impose costs.

Localities<sup>3</sup> Affected.<sup>4</sup> The proposed amendment affects all Virginia localities. No locality is particularly affected. The proposed amendment does not appear to introduce costs for local governments. Accordingly, no additional funds would be required.

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# Regulations

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Projected Impact on Employment. The proposed amendment does not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendment does not affect the use and value of private property. The proposed amendment does not affect real estate development costs.

Adverse Effect on Small Businesses:<sup>5</sup> The proposed amendment does not adversely affect small businesses.

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<sup>2</sup>See <http://townhall.virginia.gov/L/ViewAction.cfm?actionid=4019>

<sup>3</sup>"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>4</sup>§ 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

<sup>5</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Agency's Response to Economic Impact Analysis: The agency concurs with the economic impact analysis completed by the Department of Planning and Budget.

Summary:

*The amendments allow students who entered the ninth grade prior to the 2018-2019 school year to be eligible for locally awarded verified credits in English and mathematics.*

**8VAC20-131-110. Standard and verified units of credit.**

A. A "standard unit of credit" or "standard credit" is a credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. A school division may waive the requirement that a student receive 140 clock hours of instruction to earn a standard credit, effective with students enrolled in the 2015-2016 school year, as prescribed in the Standards of Quality and board guidelines. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the board with satisfactory proof, based on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division shall develop a written policy approved by the superintendent and school board that ensures:

1. That the content of the course for which credit is awarded is comparable to 140 clock hours of instruction; and

2. That upon completion, the aims and objectives of the course have been met.

B. A "verified unit of credit" or "verified credit" is a credit awarded for a course in which a student earns a standard unit of credit and completes one of the following:

1. Achieves a passing score on a corresponding end-of-course SOL test. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic Standards of Learning course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the board.

Upon waiver of the 140-clock-hour requirement according to board guidelines, qualified students who have received a standard unit of credit shall be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.

2. Achieves a passing score on an additional test, as defined in 8VAC20-131-5, as a part of the Virginia Assessment Program.

3. Meets the criteria for the receipt of a locally awarded verified credit when the student has not passed a corresponding SOL test.

- a. Students who enter the ninth grade for the first time prior to the 2018-2019 school year and do not pass SOL tests in English, mathematics, science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. Credit accommodations for students with disabilities may be used to confer locally awarded verified credits as provided in 8VAC20-131-50 B 3.

- b. Students who enter the ninth grade for the first time in the 2018-2019 school year or thereafter and do not pass SOL tests in English, mathematics, laboratory science, or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the board. No more than one locally awarded verified credit may be used to satisfy graduation requirements, except as provided in 8VAC20-131-51 B 3 for students with disabilities seeking a standard diploma.

4. Meets the criteria for the receipt of a verified credit in English (writing) by demonstrating mastery of the content of the associated course on an authentic performance assessment, that complies with guidelines adopted by the board. Such students shall not also be required to take the corresponding SOL test in English (writing).

C. The board may from time to time approve additional tests for the purpose of awarding verified credit. Such additional

tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;
2. The test must be knowledge based;
3. The test must be administered on a statewide, multistate, or international basis, or administered as part of another state's accountability assessment program; and
4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the Standards of Learning content in the course for which verified credit is given.

The board shall set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the board shall provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

E. The provisions of this section are effective on and after the beginning of the 2018-2019 academic year.

**8VAC20-131-430. Effective dates.**

A. Graduation requirements.

1. The graduation requirements for students entering the ninth grade for the first time in the 2013–2014 school year and prior to the 2018–2019 school year shall be those provided in 8VAC20-131-50.
2. The graduation requirements for students entering the ninth grade for the first time in the 2018-2019 school year and beyond shall be those provided in 8VAC20-131-51.
3. The graduation requirements applicable to students transferring into a Virginia high school for the first time shall be as determined by 8VAC20-131-60 G.

B. Locally awarded verified credits.

1. Locally awarded verified credits conferred for English, mathematics, laboratory science, and history and social science for students entering the ninth grade for the first time prior to the 2018–2019 school year shall be as provided in 8VAC20-131-110 B 3 a.
2. Locally awarded verified credits conferred for English, mathematics, laboratory science, and history and social science for students entering the ninth grade for the first time in 2018–2019 or thereafter shall be as provided in 8VAC20-131-110 B 3 b.

C. Academic and career planning.

1. The requirements for academic and career planning prescribed in 8VAC20-131-140 B shall be effective

beginning with the 2013–2014 academic year and through the 2017–2018 academic year.

2. The requirements for Academic and Career Plans prescribed in 8VAC20-131-140 C shall be effective beginning with the 2018–2019 academic year.

D. The application of the college, career, and civic readiness index as a school quality indicator used for accreditation shall be made no later than the 2021–2022 school year.

E. Unless otherwise specified, the remainder of this chapter shall become effective beginning with the 2018–2019 academic year.

VA.R. Doc. No. R18-5440; Filed April 22, 2020, 10:22 a.m.



**TITLE 9. ENVIRONMENT**

**STATE WATER CONTROL BOARD**

**Forms**

**REGISTRAR'S NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC25-740. Water Reclamation and Reuse Regulation.**

Contact Information: Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, or email [debra.harris@deq.virginia.gov](mailto:debra.harris@deq.virginia.gov).

FORMS (9VAC25-740)

~~Application for an Emergency Authorization to Produce, Distribute or Reuse Reclaimed Water (12/2015)~~

[Application for an Emergency Authorization to Produce, Distribute or Reuse Reclaimed Water, DEQ Form WR&R-4 \(rev. 4/2020\)](#)

[Application for Reclaimed Water Hauling Operations, DEQ Form WR&R-2 \(eff. 10/2018\)](#)

[Water Reclamation and Reuse Addendum to an Application for a Virginia Pollutant Discharge Elimination System Permit or a Virginia Pollution Abatement Permit, DEQ Form WR&R-1 \(rev. 1/2019\)](#)

~~Water Reclamation and Reuse Variance Application (12/2015)~~

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# Regulations

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[Water Reclamation and Reuse Variance Application, DEQ Form WR&R-3 \(rev. 4/2020\)](#)

VA.R. Doc. No. R20-6186; Filed April 21, 2020, 11:05 a.m.

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## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Proposed Regulation

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

**Title of Regulation:** 14VAC5-300. Rules Governing Credit for Reinsurance (amending 14VAC5-300-40, 14VAC5-300-90, 14VAC5-300-95, 14VAC5-300-150; adding 14VAC5-300-97).

**Statutory Authority:** §§ 12.1-13 and 38.2-1316.2 of the Code of Virginia.

**Public Hearing Information:** A public hearing will be held upon request.

**Public Comment Deadline:** June 1, 2020.

**Agency Contact:** Raquel Pino, Insurance Policy Advisor, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9152, FAX (804) 371-9873, or email [raquel.pino@scc.virginia.gov](mailto:raquel.pino@scc.virginia.gov).

#### Summary:

*The proposed amendments conform the regulation to the provisions of § 38.2-1316.2 of the Code of Virginia to reflect changes made pursuant to Chapter 208 of the 2020 Acts of Assembly eliminating the reinsurance collateral requirements for assuming insurers (reciprocal reinsurers) that have their head office or are domiciled in a reciprocal jurisdiction and that meet certain solvency requirements. Reciprocal jurisdictions include non-United States jurisdictions subject to an in-force covered agreement, United States jurisdictions accredited under the National Association of Insurance Commissioners Financial Standards and Accreditation Program, or qualified jurisdictions determined by the State Corporation Commission. The solvency requirements for reciprocal reinsurers include (i) maintaining a minimum capital and surplus; (ii) maintaining a minimum solvency or capital ratio; (iii) providing notice to the commission in the event of noncompliance with the minimum capital and surplus and minimum solvency requirements, serious*

*noncompliance with applicable law, consent to service of process, consent to payment of final judgments, and nonparticipation in solvent schemes; (iv) providing certain documentation specified by the commission; and (v) maintaining a practice of prompt payment of claims.*

AT RICHMOND, APRIL 14, 2020

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2020-00074

Ex Parte: In the matter of Adopting  
Revisions to the Rules Governing  
Credit for Reinsurance

#### ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia ("Code") provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy of this order may also be found at the Commission's website: <http://www.scc.virginia.gov/case>.

The Bureau of Insurance ("Bureau") has submitted to the Commission proposed revisions to the rules set forth in Chapter 300 of Title 14 of the Virginia Administrative Code, entitled Rules Governing Credit for Reinsurance, 14 VAC 5-300-10 et seq. ("Rules"), which revise the Rules at 14 VAC 5-300-40, 14 VAC 5-300-90, 14 VAC 5-300-95, and 14 VAC 5-300-150; and adds a new Rule at 14 VAC 5-300-97.

The proposed revisions to Chapter 300 are necessary to implement the provisions of § 38.2-1316.2 of the Code which was amended during the 2020 General Assembly (Chapter 208 of the 2020 Acts of Assembly) eliminating the reinsurance collateral requirements for Assuming Insurers (Reciprocal Reinsurers) that have their head office or are domiciled in a Reciprocal Jurisdiction and that meet certain solvency requirements. The proposed revisions include the following:

Conforming changes to citations in 14 VAC 5-300-40, 14 VAC 5-300-90 and 14 VAC 5-300-150;

Addition of the definition of "solvent scheme of arrangement" to 14 VAC 5-300-40;

Revision of the requirements in 14 VAC 5-300-95 concerning audited financial statements of certified

reinsurers, and the addition of a requirement to provide an English translation of certain information; and

The addition of 14 VAC 5-300-97, which implements the provisions of § 38.2-1316.2 E concerning credit for reinsurance ceded to assuming insurers.

NOW THE COMMISSION is of the opinion that the proposed revisions submitted by the Bureau to revise the Rules at 14 VAC 5-300-40, 14 VAC 5-300-90, 14 VAC 5-300-95, and 14 VAC 5-300-150; and to add a new Rule at 14 VAC 5-300-97, should be considered for adoption with a proposed effective date of July 1, 2020.

Accordingly, IT IS ORDERED THAT:

(1) The proposal to revise the Rules at 14 VAC 5-300-40, 14 VAC 5-300-90, 14 VAC 5-300-95, and 14 VAC 5-300-150; and to add a new Rule at 14 VAC 5-300-97 is attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose the revisions to the Rules, shall file such comments or hearing request on or before June 1, 2020, with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2020-00074. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: <http://www.scc.virginia.gov/case>. All comments shall reference Case No. INS-2020-00074.

(3) If no written request for a hearing on the proposal to revise the Rules, as outlined in this Order, is received on or before June 1, 2020, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may adopt the Rules as submitted by the Bureau.

(4) The Bureau shall provide notice of the proposal to revise the Rules to all insurers, burial societies, fraternal benefit societies, health services plans, risk retention groups, joint underwriting associations, group self-insurance pools, and group self-insurance associations licensed by the Commission, to qualified reinsurers in Virginia, and to all interested persons.

(5) The Commission's Division of Information Resources shall cause a copy of this Order, together with the proposal to revise the Rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposed revisions to the Rules on the Commission's website: <http://www.scc.virginia.gov/case>.

(7) The Bureau shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of Ordering Paragraph (4) above.

(8) This matter is continued.

A COPY of this order shall be sent electronically by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel at [MBrowder@oag.state.va.us](mailto:MBrowder@oag.state.va.us), 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and a copy hereof shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Donald C. Beatty.

**14VAC5-300-40. Definitions.**

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

"The Act" means the provisions concerning reinsurance set forth in Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia.

"Beneficiary" means the entity for whose sole benefit the trust described in 14VAC5-300-120, or the letter of credit described in 14VAC5-300-130, has been established and any successor of the beneficiary by operation of law, including, without limitation, any receiver, conservator, rehabilitator or liquidator.

"Certified reinsurer" has the meaning set forth in § 38.2-1316.1 of the Code of Virginia.

"Grantor" means the entity that has established a trust for the sole benefit of the beneficiary. However, when such a trust is established in conjunction with a reinsurance agreement that qualifies for credit under 14VAC5-300-120, the grantor shall not be an assuming insurer for which credit can be taken under § 38.2-1316.2 of the Code of Virginia.

"Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

1. Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

a. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 USCA § 5402(6), whether the

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manufactured home is considered real or personal property under the laws of the state in which it is located; and

b. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 USCA §§ 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 USCA § 1703; or

2. Is secured by one or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of items 1 a and b of this definition.

"NAIC" means the National Association of Insurance Commissioners.

"Obligations", as used in 14VAC5-300-120 A 11, means:

1. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
2. Reserves for reinsured losses reported and outstanding;
3. Reserves for reinsured losses incurred but not reported; and
4. Reserves for allocated reinsured loss expenses and unearned premiums.

"Promissory note" means, when used in connection with a manufactured home, a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

"Qualified United States financial institutions" has the meanings set forth in § 38.2-1316.1 of the Code of Virginia.

"Solvent scheme of arrangement" means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis and that may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

## **14VAC5-300-90. Credit for reinsurance; reinsurers maintaining trust funds.**

A. Pursuant to § 38.2-1316.2 C 4 of the Act, the commission shall allow credit for reinsurance ceded to a trustee assuming insurer which, as of the date of the ceding insurer's statutory financial statement:

1. Maintains a trust fund and trustee surplus that complies with the provisions of § 38.2-1316.2 C 4;
2. Complies with the requirements set forth in subsections B, C, and D of this section; and
3. Reports annually to the commission on or before June 1 of each year in which a ceding insurer seeks reserve credit under the Act substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers, to enable the commission to determine the sufficiency of the trust fund. The accounting shall, among other things, set forth the balance to the trust and list the trust's investments as of the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

B. The following requirements apply to the following categories of assuming insurer:

1. The trust fund for a single assuming insurer shall consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20 million, except as provided in subdivision 2 of this subsection.

2. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

3. a. The trust fund for a group including incorporated and individual unincorporated underwriters shall consist of:

(1) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(2) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this chapter, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(3) In addition to these trusts, the group shall maintain a trusteed surplus of which \$100 million shall be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all the years of account.

b. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group shall, within 90 days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the commission:

(1) An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or

(2) If a certification is unavailable, a financial statement prepared by independent public accountants of each underwriter member of the group.

4. a. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of \$10 billion (calculated and reported in substantially the same manner as prescribed by the NAIC Annual Statement Instructions and the NAIC Accounting Practices and Procedures Manual) and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall:

(1) Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by United States domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group;

(2) Maintain a joint trusteed surplus of which \$100 million shall be held jointly for the benefit of United States domiciled ceding insurers of any member of the group; and

(3) File a properly executed Certificate of Assuming Insurer as evidence of the submission to this Commonwealth's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

b. Within 90 days after the statements are due to be filed with the group's domiciliary regulator, the group shall file with the commission an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group.

C. 1. Credit for reinsurance shall not be granted unless the form of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that:

a. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;

b. Legal title to the assets of the trust shall be vested in the trustee for the benefit of the grantor's United States policyholders and ceding insurers, their assigns and successors in interest;

c. The trust and the assuming insurer shall be subject to examination as determined by the commission;

d. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations under reinsurance agreements subject to the trust; and

e. No later than February 28 of each year the trustees of the trust (i) shall report to the commission in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end and (ii) shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next December 31.

2. a. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with

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an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

b. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

c. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

d. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

D. For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by United States domiciled insurers, excluding liabilities that are otherwise secured by acceptable means, and shall include:

1. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

- a. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;
- b. Reserves for losses reported and outstanding;
- c. Reserves for losses incurred but not reported;
- d. Reserves for allocated loss expenses; and
- e. Unearned premiums.

2. For business ceded by domestic insurers authorized to write life, health, and annuity insurance:

- a. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;
- b. Aggregate reserves for accident and health policies;
- c. Deposit funds and other liabilities without life or disability contingencies; and
- d. Liabilities for policy and contract claims.

E. Assets deposited in trusts established pursuant to § 38.2-1316.2 of the Act and this section shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by

a United States financial institution as defined in § 38.2-1316.1 of the Act, clean, irrevocable, unconditional, and "evergreen" letters of credit issued or confirmed by a qualified United States financial institution, as defined in § 38.2-1316.1, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed 5.0% of total investments. No more than 20% of the total of the investments in the trust may be foreign investments authorized under ~~subdivisions~~ subdivision 1 e, 3, 5 b, or 6 of this subsection, and no more than 10% of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in United States dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of § 38.2-1316.2 shall be invested only as follows:

1. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed, or guaranteed by:

- a. The United States or by any agency or instrumentality of the United States;
- b. A state of the United States;
- c. A territory, possession, or other governmental unit of the United States;
- d. An agency or instrumentality of a governmental unit referred to in subdivisions 1 b and c of this subsection if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this subsection if payable solely out of special assessments on properties benefited by local improvements; or
- e. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

2. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-United States market, by a solvent United States institution (other than an insurance company) or that are assumed or guaranteed by a solvent United States institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

- a. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;
- b. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this Commonwealth and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or
- c. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

3. Obligations issued, assumed or guaranteed by a solvent non-United States institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of United States corporations issued in a non-United States currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

4. An investment made pursuant to the provisions of subdivision 1, 2, or 3 of this subsection shall be subject to the following additional limitations:

- a. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed 5.0% of the assets of the trust;
- b. An investment in any one mortgage-related security shall not exceed 5.0% of the assets of the trust;
- c. The aggregate total investment in mortgage-related securities shall not exceed 25% of the assets of the trust; and
- d. Preferred or guaranteed shares issued or guaranteed by a solvent United States institution are permissible investments if all of the institution's obligations are eligible as investments under subdivisions 2 a and 2 c of this subsection, but shall not exceed 2.0% of the assets of the trust;

5. Equity interests.

- a. Investments in common shares or partnership interests of a solvent United States institution are permissible if:
  - (1) Its obligations and preferred shares, if any, are eligible as investments under this subsection; and
  - (2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 USC §§ 78 a to 78 kk or

otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this subdivision an amount exceeding 1.0% of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

b. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development if:

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

c. An investment in or loan upon any one institution's outstanding equity interests shall not exceed 1.0% of the assets of the trust. The cost of an investment in equity interests made pursuant to this subdivision, when added to the aggregate cost of other investments in equity interests then held pursuant to this subdivision, shall not exceed 10% of the assets in the trust;

6. Obligations issued, assumed, or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

7. Investment companies.

a. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 USC § 80 a, are permissible investments if the investment company:

(1) Invests at least 90% of its assets in the types of securities that qualify as an investment under subdivision 1, 2, or 3 of this subsection or invests in securities that are determined by the commission to be substantively similar to the types of securities set forth in subdivision 1, 2, or 3 of this subsection; or

(2) Invests at least 90% of its assets in the types of equity interests that qualify as an investment under subdivision 5 a of this subsection;

b. Investments made by a trust in investment companies under this subdivision shall not exceed the following limitations:

(1) An investment in an investment company qualifying under subdivision 7 a (1) of this subsection shall not

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exceed 10% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed 25% of the assets in the trust; and

(2) Investments in an investment company qualifying under subdivision 7 a (2) of this subsection shall not exceed 5.0% of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to subdivision 5 a of this subsection.

## 8. Letters of credit.

a. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commission) to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

b. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct, or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to ~~14VAC5-300-100~~ 14VAC5-300-110 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

### **14VAC5-300-95. Credit for reinsurance; certified reinsurers.**

A. Pursuant to § 38.2-1316.2 D of the Act, the commission shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this Commonwealth at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commission. The security shall be in a form consistent with the provisions of § 38.2-1316.2 D and ~~14VAC5-300-110~~, 14VAC5-300-120, 14VAC5-300-130, or 14VAC5-300-140. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

1. Ratings	Security Required
Secure – 1	0.0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

2. Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

3. The commission shall require the certified reinsurer to post 100%, for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation, or conservation against the ceding insurer.

4. In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence that is likely to result in significant insured losses, as recognized by the commission. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

- a. Line 1: Fire
- b. Line 2: Allied Lines
- c. Line 3: Farmowners multiple peril
- d. Line 4: Homeowners multiple peril
- e. Line 5: Commercial multiple peril
- f. Line 9: Inland marine
- g. Line 12: Earthquake
- h. Line 21: Auto physical damage

5. Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended by mutual agreement of the parties to the reinsurance contract after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves

reported from and after the effective date of the amendment or new contract.

6. Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

**B. Certification procedure.**

1. The commission shall post notice on the Bureau of Insurance's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The commission may not take final action on the application until at least 30 days after posting the notice required by this subdivision.

2. The commission shall issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice shall be the rating assigned the certified reinsurer in accordance with subsection A of this section. The commission shall publish a list of all certified reinsurers and their ratings.

3. In order to be eligible for certification, the assuming insurer shall meet the following requirements:

a. The assuming insurer shall be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commission pursuant to subsection C of this section.

b. The assuming insurer shall maintain capital and surplus, or its equivalent, of no less than \$250 million calculated in accordance with subdivision 4 h of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250 million and a central fund containing a balance of at least \$250 million.

c. The assuming insurer shall maintain financial strength ratings from two or more rating agencies deemed acceptable by the commission. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commission in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

- (1) Standard & Poor's;
- (2) Moody's Investors Service;
- (3) Fitch Ratings;

(4) A.M. Best Company; or

(5) Any other nationally recognized statistical rating organization.

d. The certified reinsurer shall comply with any other requirements reasonably imposed by the commission.

4. Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following:

a. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The commission shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Ratings	Best	S&P	Moody's	Fitch
Secure – 1	A++	AAA	Aaa	AAA
Secure – 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure – 3	A	A+, A	A1, A2	A+, A
Secure – 4	A-	A-	A3	A-
Secure – 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable – 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

b. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

c. For certified reinsurers domiciled in the United States, a review of the most recent applicable NAIC annual statement blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers);

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- d. For certified reinsurers not domiciled in the United States, a review annually of the Assumed Reinsurance Form CR-F (for property/casualty reinsurers) or the Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities Form CR-S (for life and health reinsurers) of this chapter;
- e. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than 90 days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;
- f. Regulatory actions against the certified reinsurer;
- g. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 4 h of this subsection;
- h. For certified reinsurers not domiciled in the United States, audited financial statements (~~audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis~~), regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction ~~supervisor~~ supervisor with a translation into English). Upon the initial application for certification, the commission will consider audited financial statements for the last ~~three~~ two years filed with its non-United States jurisdiction supervisor;
- i. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;
- j. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves United States ceding insurers. The commission shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and
- k. Any other information deemed relevant by the commission.
5. Based on the analysis conducted under subdivision 4 e of this subsection of a certified reinsurer's reputation for prompt payment of claims, the commission may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to United States ceding insurers, provided that the commission shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under subdivision 4 a of this subsection if the commission finds that:
- a. More than 15% of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of 90 days or more that are not in dispute and that exceed \$100,000 for each cedent; or
- b. The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by 90 days or more exceeds \$50 million.
6. The assuming insurer shall submit a properly executed Certificate of Certified Reinsurer as evidence of its submission to the jurisdiction of this Commonwealth, appointment of the commission as an agent for service of process in this Commonwealth, and agreement to provide security for 100% of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment. The commission shall not certify any assuming insurer that is domiciled in a jurisdiction that the commission has determined does not adequately and promptly enforce final United States judgments or arbitration awards.
7. The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commission, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that are not otherwise public information subject to disclosure shall be exempted from disclosure under §§ 38.2-221.3 and 38.2-1306.1 of the ~~Act~~ Code of Virginia and shall be withheld from public disclosure. The applicable information filing requirements are as follows:
- a. Notification within 10 days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license, or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;
- b. Annually, Form CR-F or CR-S, as applicable;
- c. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in subdivision 7 d of this subsection;
- d. Annually, the most recent audited financial statements (~~audited United States GAAP basis if available, audited IFRS basis statements are allowed but shall include an audited footnote reconciling equity and net income to a United States GAAP basis~~), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's ~~supervisor~~ supervisor with a translation into English). Upon the initial certification, audited financial statements for the last ~~three~~ two years filed with the certified reinsurer's supervisor;

e. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers;

f. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

g. Any other information that the commission may reasonably require.

8. Change in rating or revocation of certification.

a. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commission shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of subdivision 4 a of this subsection.

b. The commission shall have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commission to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

c. If the rating of a certified reinsurer is upgraded by the commission, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commission shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commission, the commission shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

d. Upon revocation of the certification of a certified reinsurer by the commission, the assuming insurer shall be required to post security in accordance with 14VAC5-300-110 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with 14VAC5-300-90, the commission may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified

reinsurer, unless the reinsurance is found by the commission to be at high risk of uncollectibility.

C. Qualified jurisdictions.

1. If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-United States assuming insurer, the commission determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commission shall publish notice and evidence of such recognition in an appropriate manner. The commission may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

2. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commission shall evaluate the reinsurance supervisory system of the non-United States jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. The commission shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commission as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the commission with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commission, include but are not limited to the following:

a. The framework under which the assuming insurer is regulated.

b. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

c. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

d. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

e. The domiciliary regulator's willingness to cooperate with United States regulators in general and the commission in particular.

f. The history of performance by assuming insurers in the domiciliary jurisdiction.

g. Any documented evidence of substantial problems with the enforcement of final United States judgments in the domiciliary jurisdiction. A jurisdiction will not be

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considered to be a qualified jurisdiction if the commission has determined that it does not adequately and promptly enforce final United States judgments or arbitration awards.

h. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

i. Any other matters deemed relevant by the commission.

3. A list of qualified jurisdictions shall be published through the NAIC committee process. The commission shall consider this list in determining qualified jurisdictions. If the commission approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commission shall provide thoroughly documented justification with respect to the criteria provided under subdivisions 2 a through i of this subsection.

4. United States jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

D. Recognition of certification issued by an NAIC accredited jurisdiction.

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commission has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Certificate of Certified Reinsurer and such additional information as the commission requires. The assuming insurer shall be considered to be a certified reinsurer in this Commonwealth.

2. Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this Commonwealth as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commission of any change in its status or rating within 10 days after receiving notice of the change.

3. The commission may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with subdivision B 8 a of this section.

4. The commission may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commission suspends or revokes the certified reinsurer's certification in accordance with subdivision B 8 b of this section, the certified reinsurer's certification shall remain in good standing in this Commonwealth for a period of three months, which shall be extended if additional time is

necessary to consider the assuming insurer's application for certification in this Commonwealth.

E. Mandatory funding clause. In addition to the clauses required under 14VAC5-300-150, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. The commission shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

## **14VAC5-300-97. Credit for reinsurance; reciprocal jurisdictions.**

A. Pursuant to § 38.2-1316.2 E of the Act, the commission shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a reciprocal jurisdiction and that meets the other requirements of this chapter.

B. A "reciprocal jurisdiction" is a jurisdiction, as designated by the commission pursuant to subsection D of this section, that meets one of the following:

1. A non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (31 USC §§ 313 and 314) that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this Commonwealth or for allowing the ceding insurer to recognize credit for reinsurance;

2. A United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. A qualified jurisdiction, as determined by the commission pursuant to § 38.2-1316.2 D of the Code of Virginia and 14VAC5-300-95 C, that is not otherwise described in subdivision 1 or 2 of this subsection and that the commission determines meets all of the following additional requirements:

a. Provides that an insurer that has its head office or is domiciled in such qualified jurisdiction shall receive

credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. Does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. Recognizes the United States state regulatory approach to group supervision and group capital by providing written confirmation by a competent regulatory authority in such qualified jurisdiction that insurers and insurance groups that are domiciled or maintain their headquarters in this Commonwealth or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision, including worldwide group governance, solvency and capital, and reporting, as applicable, by the commission or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. Provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and the insurers' parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commission in accordance with a memorandum of understanding or similar document between the commission and such qualified jurisdiction, including to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this Commonwealth to an assuming insurer meeting each of the conditions set forth in this subsection.

1. The assuming insurer must be licensed to transact reinsurance by and have its head office or be domiciled in a reciprocal jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction and confirmed as set forth in subdivision C 7 of this subsection according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. No less than \$250 million; or

b. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

(1) Minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250 million; and

(2) A central fund containing a balance of the equivalent of at least \$250 million.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. If the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in subdivision B 1 of this section, the ratio specified in the applicable covered agreement;

b. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subdivision B 2 of this section, a risk-based capital (RBC) ratio of 300% of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. If the assuming insurer is domiciled in a reciprocal jurisdiction as defined in subdivision B 3 of this section, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC Committee Process, such solvency or capital ratio as the commission determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction Form RJ-1 of this chapter, of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the commission if it falls below the minimum requirements set forth in subdivision 2 or 3 of this subsection or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this Commonwealth and to the appointment of the commission as agent for service of process.

(1) The commission may also require that such consent be provided and included in each reinsurance agreement under the commission's jurisdiction.

(2) Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

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c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer that have been declared enforceable in the territory where the judgment was obtained.

d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this Commonwealth's ceding insurers, and agrees to notify the ceding insurer and the commission and to provide 100% security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subsection D of § 38.2-1316.2 and subdivision 2 of § 38.2-1316.4 of the Code of Virginia and 14VAC5-300-120, 14VAC5-300-130 or 14VAC5-300-140.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in subdivision 5 of this subsection.

5. The assuming insurer or its legal successor must provide, if requested by the commission, on behalf of itself and any legal predecessors, the following documentation to the commission:

a. For the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. For the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion if filed with the assuming insurer's supervisor;

c. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. Prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information

regarding the assuming insurer's assumed reinsurance by ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in subdivision 6 of this subsection.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than 15% of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commission;

b. More than 15% of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more that are not in dispute and that exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses that are not in dispute, but are overdue by 90 days or more, exceeds \$50 million, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commission on an annual basis that the assuming insurer complies with the requirements set forth in subdivisions 2 and 3 of this subsection.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC Committee Process. The commission's list shall include any reciprocal jurisdiction as defined under subdivisions B 1 and B 2 of this section and shall consider any other reciprocal jurisdiction included on the NAIC list. The commission may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law or regulation or in accordance with criteria published through the NAIC Committee Process.

2. The commission may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law or regulation or in accordance with a process published through the NAIC Committee Process, except that the commission shall not remove from the list a reciprocal jurisdiction as defined under subdivisions B 1 and B 2 of this section. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an

assuming insurer domiciled in that jurisdiction shall be allowed if otherwise allowed pursuant to Article 3.1 (§ 38.2-1316.1 et seq.) of Chapter 13 of Title 38.2 of the Code of Virginia or this chapter.

E. The commission shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in subsection C of this section have been met, the commission has the discretion to defer to that jurisdiction's determination and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commission may accept financial documentation filed with another NAIC accredited jurisdiction or with the NAIC in satisfaction of the requirements of subsection C of this section.

2. When requesting that the commission defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 and additional information as the commission may require. A state that has received such a request will notify other states through the NAIC Committee Process and provide relevant information with respect to the determination of eligibility.

F. If the commission determines that an assuming insurer no longer meets one or more of the requirements under this section, the commission may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with 14VAC5-300-110.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commission and consistent with the provisions of 14VAC5-300-110.

G. Before denying statement credit or imposing a requirement to post security with respect to subsection F of this section or adopting any similar requirement that will have substantially the same regulatory impact as security, the commission shall:

1. Communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in subsection C of this section;

2. Provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. After the expiration of the 90-day or shorter period to remedy the defect, as set out in subdivision 2 of this subsection, if the commission determines that no or insufficient action was taken by the assuming insurer, the commission may impose any of the requirements as set out in this subsection; and

4. Provide a written explanation to the assuming insurer of any of the requirements set out in this subsection.

H. If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or its representative may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

#### **14VAC5-300-150. Reinsurance contract.**

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of 14VAC5-300-60, 14VAC5-300-70, 14VAC5-300-80, 14VAC5-300-90, 14VAC5-300-95, 14VAC5-300-97, or 14VAC5-300-100 14VAC5-300-110 or otherwise in compliance with § 38.2-1316.2 of the Act unless the reinsurance agreement:

1. Includes a proper insolvency clause that stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company;

2. Includes a provision whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give such court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decisions of such court or panel; and

3. Includes a proper reinsurance intermediary clause, if applicable, that stipulates that the credit risk for the intermediary is carried by the assuming insurer.

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B. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this Commonwealth, the credit permitted pursuant to § 38.2-1316.2 C 3, C 4, and ~~G~~ H shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. a. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

b. To designate the commission or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

2. This subsection is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

C. If the assuming insurer does not meet the requirements of § 38.2-1316.2 C 1, 2, or 3, the credit permitted by § 38.2-1316.2 C 4 or D shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

1. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by § 38.2-1316.2 C 4, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

2. The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

3. If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

4. The grantor shall waive any right otherwise available to it under United States law that is inconsistent with this provision.

**NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

## FORMS (14VAC5-300)

[Certificate of Assuming Insurer - Year Ended December 31, 2017, R05 \(05/18\) \(eff. 5/2018\)](#)

~~[Certificate of Certified Reinsurer - Year Ended December 31, \\_\\_\\_\\_\\_, R15 \(02/14\) \(eff. 2/2014\)](#)~~

[Certificate of Certified Reinsurer - Year Ended December 31, \\_\\_\\_\\_\\_, R15 \(eff. 11/2019\)](#)

[Schedule S, Part 1 - Part 7, 1994-2017 National Association of Insurance Commissioners, Annual Statement Blank, Life, Accident & Health \(eff. 1/2018\)](#)

[Schedule F, Part 1 - Part 9, 1994-2017 National Association of Insurance Commissioners, Annual Statement Blank, Property/Casualty \(eff. 1/2018\)](#)

[Form CR-F - Part 1 - Part 2, 2011 National Association of Insurance Commissioners \(eff. 1/2013\)](#)

[Form CR-S - Part 1 - Part 3, 2011 National Association of Insurance Commissioners \(eff. 1/2013\)](#)

[Certificate of Reinsurer Domiciled in Reciprocal Jurisdiction - Year Ended December 31, \\_\\_\\_\\_\\_, RJ-1 \(eff. 7/2020\)](#)

VA.R. Doc. No. R20-6333; Filed April 14, 2020, 3:21 p.m.



## TITLE 16. LABOR AND EMPLOYMENT

### SAFETY AND HEALTH CODES BOARD

#### Final Regulation

**REGISTRAR'S NOTICE:** The Safety and Health Codes Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 3, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The Safety and Health Codes Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

**Title of Regulation: 16VAC25-60. Administrative Regulation for the Virginia Occupational Safety and Health Program (amending 16VAC25-60-260).**

**Statutory Authority:** §§ 40.1-2, 40.1-6, and 40.1-22 of the Code of Virginia; Occupational Safety and Health Act of 1970 (P.L. 91-596).

**Effective Date:** May 11, 2020.

**Agency Contact:** Jay Withrow, Director, Legal Support, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Suite 207, Richmond, VA 23219, telephone (804) 786-9873, FAX (804) 786-8418, or email [jay.withrow@doli.virginia.gov](mailto:jay.withrow@doli.virginia.gov).

**Summary:**

*The amendments conform the regulation to § 40.1-51.1 D of the Code of Virginia, which was amended pursuant to Chapter 336 of the 2016 Acts of Assembly to align with 29 CFR 1904.39(a)(2).*

Part VI  
Citation and Penalty

**16VAC25-60-260. Issuance of citation and proposed penalty.**

A. Each citation shall be in writing and describe with particularity the nature of the violation ~~or violations~~, including a reference to the appropriate safety or health provision of Title 40.1 of the Code of Virginia or the appropriate rule, regulation, or standard. In addition, the citation must fix a reasonable time for abatement of the violation. The commissioner shall have authority to propose penalties for cited violations in accordance with § 40.1-49.4 of the Code of Virginia and this chapter. The citation will contain substantially the following: "NOTICE: This citation will become a final order of the commissioner unless contested within fifteen working days from the date of receipt by the employer." The citation may be delivered to the employer or ~~his~~ the employer's agent by the commissioner or may be sent by certified mail or by personal service to an officer or agent of the employer or to the registered agent if the employer is a corporation.

No citation may be issued after the expiration of six months following the occurrence of any alleged violation. The six-month timeframe is deemed to be tolled on the date the citation is issued by the commissioner, without regard for when the citation is received by the employer. For purposes of calculating the six-month timeframe for citation issuance, the following requirements shall apply:

1. The six-month timeframe begins to run on the day after the incident or event occurred or notice was received by the commissioner (as specified in subdivisions 1 through 5 of this subsection), in accordance with § 1-210 A of the Code of Virginia. The word "month" shall be construed to

mean one calendar month in accordance with § 1-223 of the Code of Virginia.

2. An alleged violation is deemed to have "occurred" on the day it was initially created by commission or omission on the part of the creating employer, and every day thereafter that it remains in existence uncorrected.

3. Notwithstanding subdivision 1 of this subsection, if an employer fails to notify the commissioner within eight hours of any work-related incident resulting in a fatality or within 24 hours of any work-related incident resulting in (i) the in-patient hospitalization of ~~three~~ one or more persons, ~~within eight hours of such occurrence~~ (ii) an amputation, or (iii) the loss of any eye, as required by § 40.1-51.1 D of the Code of Virginia, the six-month timeframe shall not be deemed to commence until the commissioner receives actual notice of the incident.

4. Notwithstanding subdivision 1 of this subsection, if the commissioner is first notified of a work-related incident resulting in an injury or illness to an employee ~~or employees~~ through receipt of an Employer's Accident Report (EAR) form from the Virginia Workers' Compensation Commission as provided in § 65.2-900 of the Code of Virginia, the six-month timeframe shall not be deemed to commence until the commissioner actually receives the EAR form.

5. Notwithstanding subdivision 1 of this subsection, if the commissioner is first notified of a work-related hazard, or incident resulting in an injury or illness to an employee ~~or employees~~, through receipt of a complaint in accordance with 16VAC25-60-100 or referral, the six-month timeframe shall not be deemed to commence until the commissioner actually receives the complaint or referral.

B. A citation issued under subsection A of this section to an employer who violates any VOSH law, standard, rule, or regulation shall be vacated if such employer demonstrates that:

1. Employees of such employer have been provided with the proper training and equipment to prevent such a violation;
2. Work rules designed to prevent such a violation have been established and adequately communicated to employees by such employer and have been effectively enforced when such a violation has been discovered;
3. The failure of employees to observe work rules led to the violation; and
4. Reasonable steps have been taken by such employer to discover any such violation.

C. For the purposes of subsection B of this section only, the term "employee" shall not include any officer, management official, or supervisor having direction, management control,

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or custody of any place of employment ~~which~~ that was the subject of the violative condition cited.

D. The penalties as set forth in § 40.1-49.4 of the Code of Virginia shall also apply to violations relating to the requirements for recordkeeping, reports, or other documents filed or required to be maintained and to posting requirements.

E. In determining the amount of the proposed penalty for a violation, the commissioner will ordinarily be guided by the system of penalty adjustment set forth in the VOSH Field Operations Manual. In any event the commissioner shall consider the gravity of the violation, the size of the business, the good faith of the employer, and the employer's history of previous violations.

The commissioner shall have authority to propose civil penalties to public employers for willful, repeat, and failure-to-abate violations in accordance with subsections I and J of § 40.1-49.4 ~~of the Code of Virginia~~, and for serious violations that cause death to an employee or are classified as high gravity in accordance with subsection H of § 40.1-49.4.

F. On multi-employer worksites for all covered industries, citations shall normally be issued to an employer whose employee is exposed to an occupational hazard (the exposing employer). Additionally, the following employers shall normally be cited, whether or not their own employees are exposed:

1. The employer who actually creates the hazard (the creating employer);
2. The employer who is either:
  - a. Responsible, by contract or through actual practice, for safety and health conditions on the entire worksite, and has the authority for ensuring that the hazardous condition is corrected (the controlling employer); or
  - b. Responsible, by contract or through actual practice, for safety and health conditions for a specific area of the worksite, or specific work practice, or specific phase of a construction project, and has the authority for ensuring that the hazardous condition is corrected (the controlling employer); or
3. The employer who has the responsibility for actually correcting the hazard (the correcting employer).

G. A citation issued under subsection F of this section to an exposing employer who violates any VOSH law, standard, rule, or regulation shall be vacated if such employer demonstrates that:

1. The employer did not create the hazard;
2. The employer did not have the responsibility or the authority to have the hazard corrected;

3. The employer did not have the ability to correct or remove the hazard;

4. The employer can demonstrate that the creating, the controlling, or the correcting employers, as appropriate, have been specifically notified of the hazards to which ~~his~~ the employer's employees were exposed;

5. The employer has instructed his employees to recognize the hazard and, where necessary, informed them how to avoid the dangers associated with it;

6. Where feasible, an exposing employer must have taken appropriate alternative means of protecting employees from the hazard; and

7. When extreme circumstances justify it, the exposing employer shall have removed ~~his~~ the employer's employees from the job.

H. The commissioner's burden of proving the basis for a VOSH citation, penalty, or order of abatement is by a preponderance of the evidence.

I. The burden of proof in establishing an affirmative defense to a VOSH citation resides with the employer.

VA.R. Doc. No. R20-6350; Filed April 13, 2020, 10:35 a.m.



## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

#### Proposed Regulation

<p><u>REGISTRAR'S NOTICE:</u> 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.</p>
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Titles of Regulations: **20VAC5-201. Rules Governing Utility Rate Applications and Annual Informational Filings (amending 20VAC5-201-10 through 20VAC5-201-40, 20VAC5-201-70, 20VAC5-201-90 through 20VAC5-201-110; adding 20VAC5-201-15; repealing 20VAC5-201-50, 20VAC5-201-60, 20VAC5-201-80).**

**20VAC5-204. Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities (adding 20VAC5-204-5 through 20VAC5-204-90).**

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

**Public Hearing Information:** A public hearing will be held upon request.

**Public Comment Deadline:** June 9, 2020.

**Agency Contact:** Allison Samuel, Principal Utilities Analyst, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 225-3177, or email [allison.samuel@scc.virginia.gov](mailto:allison.samuel@scc.virginia.gov).

**Summary:**

*The proposed amendments (i) remove investor-owned electric utilities from Chapter 201, which now only applies to investor-owned gas and water utilities, and (ii) add 20VAC5-204, Rules Governing Utility Rate Applications and Annual Informational Filings of Investor-Owned Electric Utilities, applicable to investor-owned electric utilities. The new chapter establishes minimum filing requirements related to annual informational filings, rate case filings, and prudency determinations under Chapters 10 (§ 56-232 et seq.) and 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia, including requiring triennial reviews rather than biennial reviews of base rate earnings, expanding the number and types of rate adjustment clauses that may be sought by electric utilities, and permitting the filing of limited prudency reviews under § 56 585.1:4 F of the Code of Virginia.*

AT RICHMOND, APRIL 17, 2020

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2020-00022

Ex Parte: In the matter of adopting new rules of the State Corporation Commission governing utility rate application by investor-owned electric utilities

ORDER FOR NOTICE AND COMMENT

In 2007, the Virginia General Assembly amended Chapter 23 of Title 56 of the Code of Virginia ("Regulation Act"), which significantly changed the manner in which certain investor-owned electric utility rates are regulated. On December 16, 2008, in response thereto, the State Corporation Commission ("Commission") adopted revisions to its Rules Governing Utility Rate Application and Annual Informational Filings, 20 VAC 5-201-10 et seq. ("Existing Rate Case Rules").<sup>1</sup>

Since the most recent revisions to the Existing Rate Case Rules, the electric utilities, interested parties and the Commission have obtained significant actual experience in implementing the Regulation Act. In addition, subsequent legislative amendments have, among other things, modified the Regulation Act to require triennial reviews rather than biennial reviews of base rate earnings; expanded the number

and types of rate adjustment clauses that may be sought by utilities; and permitted the filing of limited prudency reviews under Code § 56-585.1:4 F. The Regulation Act also establishes various statutory deadlines for the Commission to issue a final order in various types of cases, ranging from 90 days to nine months after filing. These time periods limit the time available for discovery and analysis of requested rate changes.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that a proceeding should be established to promulgate new rules governing utility rate applications and annual informational filings of investor-owned electric utilities ("Investor-owned Electric Utility Rate Case Rules"). In connection therewith, the Commission will also consider limited revisions to the Existing Rate Case Rules to remove their applicability to investor-owned electric utilities (together with Investor-owned Electric Utility Rate Case Rules, "Proposed Rules"). The Commission does not intend to consider any additional changes to the Existing Rate Case Rules beyond removing their applicability to investor-owned electric utilities in this proceeding. To initiate this proceeding, the Commission's Staff ("Staff") has prepared Proposed Rules which are appended to this Order. We will direct that notice of the Proposed Rules be given to the public and that interested persons be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rules. We further find that a copy of the Proposed Rules should be sent to the Registrar of Regulations for publication in the Virginia Register of Regulations.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.<sup>2</sup> The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.<sup>3</sup> Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of comments.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed as Case No. PUR-2020-00022.

(2) All filings in this matter should be submitted electronically to the extent authorized by Rule 5 VAC 5-20-150, Copies and Format, of the Commission's Rules of Practice and Procedure ("Rules of Practice").<sup>4</sup> For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

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(3) The Commission's Division of Information Resources shall forward a copy of this Order for Notice and Comment ("Order"), including a copy of the Proposed Rules, to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(4) An electronic copy of the Proposed Rules may be obtained by submitting a request to Allison F. Samuel in the Commission's Division of Public Utility Regulation at the following email address: [Allison.Samuel@scc.virginia.gov](mailto:Allison.Samuel@scc.virginia.gov). An electronic copy of the Proposed Rules can be found at the Division of Public Utility Regulation's website: <https://scc.virginia.gov/pages/Rulemaking>. Interested persons may also download unofficial copies of the Order and the Proposed Rules from the Commission's website: <https://scc.virginia.gov/pages/Case-Information>.

(5) On or before June 9, 2020, any interested person may file comments on the Proposed Rules by following the instructions found on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. Such comments may also include proposals and hearing requests. All comments shall refer to Case No. PUR-2020-00022. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the papers filed herein.

(6) On or before June 30, 2020, the Staff may file with the Clerk of the Commission a report on or a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules.

(7) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the Commission.

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<sup>1</sup>Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising the rules of the State Corporation Commission governing utility rate increase applications pursuant to Chapter 933 of the 2007 Acts of Assembly, Case No. PUE-2008-00001, 2008 S.C.C. Ann. Rept. 462, Order Adopting Regulations (Dec. 16, 2008). In 2012, the Commission initiated a proceeding to consider whether the Existing Rate Case Rules should be revised, ultimately determining that the "proceeding should be closed and a new proceeding should be initiated in the future if necessary to consider revisions to the Rate Case Rules that are applicable to all utilities subject to the Rules." Commonwealth of Virginia, ex rel. State Corporation Commission, Ex. Parte: In the matter of revising the Rules of the State Corporation Commission governing utility rate applications by electric utilities subject to the Virginia Electric Utility Regulation Act, Case No. PUE-2012-00043, 2014 S.C.C. Ann. Rept. 257, Order Closing Proceeding (Nov. 10, 2014).

<sup>2</sup>See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Gov. Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on

Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay At Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam.

<sup>3</sup>See, e.g., Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020); Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

<sup>4</sup>5 VAC 5-20-10 et seq.

## CHAPTER 201 RULES GOVERNING UTILITY RATE APPLICATIONS AND ANNUAL INFORMATIONAL FILINGS OF INVESTOR-OWNED GAS AND WATER UTILITIES

### 20VAC5-201-10. General filing instructions.

A. An applicant shall provide a notice of intent to file an application pursuant to 20VAC5-201-20, 20VAC5-201-40, ~~20VAC5-201-60~~ and 20VAC5-201-85 to the commission 60 days prior to the application filing date.

B. Applications pursuant to 20VAC5-201-20 ~~through~~, 20VAC5-201-30, 20VAC5-201-40, and 20VAC5-201-70 shall include:

1. The name and post office address of the applicant and the name and post office address of ~~its~~ the applicant's counsel.
2. A full clear statement of the facts that the applicant is prepared to prove by competent evidence.
3. A statement of details of the ~~objective or~~ objectives sought and the legal basis therefore.
4. All direct testimony by which the applicant expects to support the ~~objective or~~ objectives sought.
5. Information or documentation conforming to the following general instructions:
  - a. Attach a table of contents of the company's application, including exhibits.
  - b. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as ~~shown below~~ follows:  
Exhibit No. (Leave Blank)  
Witness: (Initials)  
Statement or  
Schedule Number

c. The first page of all exhibits shall contain a caption that describes the subject matter of the exhibit.

d. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount that differs, together with an explanation describing the nature of the difference.

e. The required accounting and statistical data shall include all work papers and other information necessary to ensure that the items, statements, and schedules are not misleading.

C. This chapter does not limit the commission staff or parties from raising issues for commission consideration that have not been addressed in the applicant's filing before the commission. Except for good cause shown, issues specifically decided by commission order entered in the applicant's most recent rate case may not be raised by staff or interested parties in Earnings Test Filings made pursuant to 20VAC5-201-10, ~~or 20VAC5-201-30 or 20VAC5-201-50.~~

D. An application filed pursuant to 20VAC5-201-20, 20VAC5-201-30, 20VAC5-201-40, ~~20VAC5-201-60,~~ 20VAC5-201-70, ~~20VAC5-201-80~~ or 20VAC5-201-85 shall not be deemed filed per Chapter 10 (§ 56-232 et seq.) ~~or Chapter 23 (§ 56-576 et seq.)~~ of Title 56 of the Code of Virginia unless it is in full compliance with this chapter.

E. The commission may waive any part or all ~~parts~~ of this chapter for good cause shown.

F. Where a filing contains information that the applicant claims to be confidential, the filing may be made under seal provided it is simultaneously accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall, however, be immediately available to the commission staff for internal use at the commission.

G. Filings containing confidential (or redacted) information shall so state on the cover of the filing, and the precise portions of the filing containing such confidential (or redacted) information, including supporting material, shall be clearly marked within the filing.

H. Applicants shall file electronic media containing an electronic spreadsheet version of Schedules 1 - through 5, 8 - through 28, 36, 40, and 50, as applicable, with the commission's Division of Utility Accounting and Finance and the Division of Energy Regulation or the Division of Communications, as appropriate. Such electronic media containing calculations derived from formulas shall be provided in an electronic spreadsheet including all underlying formulas and assumptions. Such electronic spreadsheet shall be commercially available and have common use in the utility

industry. Additional versions of such schedules shall be made available to parties upon request.

I. All applications, including direct testimony and Schedules 1 - through 28, 30 - through 39, and 41 - through 50, as applicable, shall be filed in an original and 12 copies with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. One copy of Schedules 29 and 40 shall be filed with the Clerk of the Commission. Applicants may omit filing Schedule 29 with the Clerk of the Commission in Annual Informational Filings. Additional copies of such schedules shall be made available to parties upon request.

Two copies of Schedules 29 and 40 shall be submitted to the Division of Utility Accounting and Finance or the Division of Communications, as appropriate. Two copies of Schedule 40 shall be submitted to the Division of Energy Regulation.

J. For any application made pursuant to 20VAC5-201-20 ~~and 20VAC5-201-40 through 20VAC5-201-70, and 20VAC5-201-85,~~ the applicant shall serve a copy of the information required in subsection A and subdivisions B 1 ~~through B 2, and B 3~~ of this section, upon the attorney and chairman of the board of supervisors of each county (or equivalent officials in the counties having alternate forms of government) in this Commonwealth affected by the proposed increase and upon the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia. All such service specified by this section shall be made either by (i) personal delivery or (ii) first class mail, to the customary place of business or to the residence of the person served.

K. Nothing in these this chapter shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.

**20VAC5-201-15. Applicability to applications of investor-owned electric utilities.**

This chapter shall not apply to applications filed by investor-owned electric utilities on or after October 1, 2020.

**20VAC5-201-20. General and expedited rate increase applications.**

A. An application for a general or expedited rate increase pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia for a public utility having annual revenues

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exceeding \$1 million, shall conform to the following requirements:

1. Exhibits consisting of Schedules ~~4-43~~ 1 through 43 and the utility's direct testimony shall be submitted. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in 20VAC5-201-90.

2. ~~An applicant subject to § 56-585.1 of the Code of Virginia shall file Schedules 45 and 47 in addition to the schedules required in subdivision A 1 of this section in accordance with the instructions accompanying such schedules in 20VAC5-201-90.~~

~~3.~~ An exhibit consisting of additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule 50 (this exhibit may include numerous subschedules labeled 50A et seq.).

B. The selection of a historic test period is up to the applicant. However, the use of overlapping test periods will not be allowed.

C. Applicants meeting each of the four following criteria may omit Schedules ~~9-18~~ 9 through 18 in rate applications: (i) ~~the applicant is not subject to § 56-585.1 of the Code of Virginia,~~ (ii) the applicant is not currently bound by a performance-based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia that includes an earnings sharing mechanism or other attribute for which the commission has directed the performance of an Earnings Test, ~~(iii)~~ (ii) the applicant has no Virginia jurisdictional regulatory assets on its books, and ~~(iv)~~ (iii) the applicant is not seeking to establish a regulatory asset.

D. If not otherwise constrained by law or regulatory requirements, an applicant who has not experienced a substantial change in circumstances may file an expedited rate application as an alternative to a general rate application. Such application need not propose an increase in regulated operating revenues. If, upon timely consideration of the expedited application and supporting evidence, it appears that a substantial change in circumstances has taken place since the applicant's last rate case, then the commission may take appropriate action, such as directing that the expedited application be dismissed or treated as a general rate application. Prior to public hearing, and subject to applicable provisions of law, an application for expedited rate increase may take effect within 30 days after the date the application is filed. Expedited rate increases may also take effect in less than 12 months after the applicant's preceding rate increase so long as rates are not increased as a result thereof more than once in any calendar year. An applicant making an expedited application shall also comply with the following rules:

1. In computing its cost of capital, as prescribed in Schedule 3 in 20VAC5-201-90, the applicant, ~~other than those utilities subject to § 56-585.1 of the Code of~~

~~Virginia,~~ shall use the equity return rate approved by the commission and used to determine the revenue requirement in the utility's most recent rate proceeding.

2. An applicant, in developing its rate of return statement, shall make adjustments to its test period jurisdictional results only in accordance with the instructions for Schedule 25 in 20VAC5-201-90.

3. The applicant may propose new allocation methodologies, rate designs, and new or revised terms and conditions provided such proposals are supported by appropriate cost studies. Such support shall be included in Schedule 40.

E. Rates authorized to take effect 30 days following the filing of any application for an expedited rate increase shall be subject to refund in a manner prescribed by the commission. Whenever rates are subject to refund, the commission may also direct that such refund bear interest at a rate set by the commission.

## **20VAC5-201-30. Annual informational filings.**

Unless modified per a commission-approved alternative regulatory plan, each utility ~~not subject to § 56-585.1 of the Code of Virginia, and which~~ is not requesting a base rate increase shall make an annual informational filing consisting of Schedules ~~4-7~~ 1 through 7, 9, 11, 12, 14-19 14 through 19, 21-22, 24-25 21, 22, 24, 25, 27, 28, and 40 a and b as identified in 20VAC5-201-90. The test period shall be the current 12 months ending in the same month used in the utility's most recent rate application. This information shall be filed with the commission within 120 days after the end of the test period. Accounting adjustments reflected in Column (2) of Schedule 21 shall incorporate the ratemaking treatment approved by the commission in the utility's last rate case and shall be calculated in accordance with the Expedited Rules of Schedule 25. Requirements found in 20VAC5-201-10 B 2 ~~through, B 3, and B 4~~ may be omitted in Annual Informational Filings.

Applicants meeting each of the ~~four~~ following criteria may omit Schedules ~~9-18~~ 9, 11, 12, 14, and 15 through 18 in Annual Informational Filings: (i) ~~the applicant is not subject to § 56-585.1 of the Code of Virginia,~~ (ii) the applicant is not currently bound by a performance-based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia that includes an earnings sharing mechanism or other attribute for which the commission has directed the performance of an Earnings Test, ~~(iii)~~ (ii) the applicant has no Virginia jurisdictional regulatory assets on its books, and ~~(iv)~~ (iii) the applicant is not seeking to establish a regulatory asset.

**20VAC5-201-40. Optional performance-based regulation applications.**

A. An applicant, other than those subject to § 56-585.1 of the Code of Virginia, that files an application for performance-based regulation pursuant to § 56-235.6 of the Code of Virginia shall file Schedules ~~1-32~~ 1 through 32 and ~~34-43~~ 34 through 43 as identified in 20VAC5-201-90.

B. An applicant subject to § 56-585.1 that files a performance-based regulation filing pursuant to § 56-235.6 shall file Schedules ~~1-45~~ and ~~47~~ as identified in 20VAC5-201-90.

**20VAC5-201-50. Biennial review applications. (Repealed.)**

A. A biennial review application filed pursuant to § 56-585.1 of the Code of Virginia shall include the following:

1. Exhibits consisting of Schedules ~~3, 6-7, 9-18, 40a~~ and ~~44~~ as identified in 20VAC5-201-90 shall be submitted with the utility's direct testimony for each of the two successive 12-month test periods.
2. Exhibits consisting of Schedules ~~1-2, 4-5, 8, 19-34, 36-39, 40b-d, 41-43, 45, and 47~~ as identified in 20VAC5-201-90, shall be submitted with the utility's direct testimony for the second of the two successive 12-month test periods.
3. An exhibit consisting of Schedule ~~35~~ shall be filed with the commission no later than April 30 each year.
4. An exhibit consisting of Schedule ~~49~~ shall be submitted with the utility's direct testimony, if required.
5. An exhibit consisting of additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule ~~50~~ (this exhibit may include subschedules as needed labeled ~~50A~~ et seq.).
6. A reconciliation of Schedules ~~19~~ and ~~22~~ to the statement of income and comparative balance sheet contained in FERC Form No. 1.

B. The assumed rate year for purposes of determining ratemaking adjustment in Schedules ~~21~~ and ~~24~~, as identified in 20VAC5-201-90, shall begin on December 1 of the year following the two successive 12-month test periods.

**20VAC5-201-60. Rate adjustment clause filings. (Repealed.)**

An application filed pursuant to § 56-585.1 A 4, 5 or 6 of the Code of Virginia shall include Schedules ~~45~~ and ~~46~~ as identified and described in 20VAC5-201-90, and which shall be submitted with the utility's direct testimony.

**20VAC5-201-70. Temporary increases of rates.**

A. Applicants that file a request for a temporary increase in rates pursuant to § 56-245 of the Code of Virginia shall include Schedules ~~1-7~~ 1 through, ~~9, 11-12~~ 11, 12, 14 and ~~16-~~

~~18, 16, 17, and 18~~ as identified and described in 20VAC5-201-90.

B. Applicants subject to § 56-585.1 of the Code of Virginia that file a request for a temporary increase in rates pursuant to § 56-245 shall file Schedules ~~44, 45~~ and ~~47~~ as identified and described in 20VAC5-201-90 in addition to the schedules required in subsection A of this section.

**20VAC5-201-80. Fuel factor filings. (Repealed.)**

A. In the event that an electric utility files an application to change the fuel factor, fuel factor projections shall be filed at least six weeks prior to the proposed effective date. The filing shall include projections required by the commission's Fuel Monitoring System as well as the testimony and exhibits supporting the fuel factor projections. At a minimum, the filing shall include the following for each month of the forecast period in which the proposed fuel factor is expected to be in effect:

1. Projections of system sales and energy supply requirements (MWh);
2. Projections of generation and purchased power levels (MWh) by source;
3. Projections of fuel requirements by generating unit (MMBtu);
4. Projections of fuel and purchased power costs by source;
5. Projections of off-system sales volumes and margins;
6. Projections of generating unit outage rates and heat rates; and
7. Total fuel factor costs by source by month.

The filing shall further include the following information for each month for the most recent historical 12-month period:

1. Actual system sales and energy supply (MWh);
2. Actual generation and purchased power levels (MWh) by source;
3. Actual fuel burns by generating units (MMBtu);
4. Actual fuel and purchased power costs by source;
5. Actual off-system sales volumes and margins along with support for calculation of margins;
6. Actual generating unit planned and forced outage rates and heat rates along with brief descriptions and durations of outages; and
7. Discussion of any abnormal operating events and actions taken to minimize fuel and purchased energy costs.

B. Electric utilities not seeking a change in the fuel factor shall file fuel factor projections at least six weeks prior to the expiration of the last projection or as required by the

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~~commission. The filing shall include the same information required in subsection A of this section.~~

## 20VAC5-201-90. Instructions for schedules and exhibits for Chapter 201.

The following instructions for schedules and exhibits including those specifically set forth in 20VAC5-201-95 (Schedules ~~1-14~~) 1 through 14), 20VAC5-201-100 (Schedules ~~15-22~~) 15 through 22), and 20VAC5-201-110 (Schedules ~~23-28, 40 and 44~~) 24 through 28 and 40) are to be used in conjunction with this chapter:

### Schedule 1 - Historic Profitability and Market Data

Instructions: Using the format of the attached schedule and the following definitions ~~provided below~~, provide the data for the test year and four prior fiscal years. The information shall be compatible with the latest stockholder's annual report (including any restatements). Information in Sections A and B shall be compiled for the corporate entity that raises equity capital in the marketplace. Information in Section C shall be compiled for the subsidiary company that provides regulated utility service in Virginia.

Definitions for Schedule 1

$$\text{Return on Year End Equity}^* = \frac{\text{Earnings Available for Common Shareholders}}{\text{Year End Common Equity}}$$

$$\text{Return on Average Equity}^* = \frac{\text{Earnings Available for Common Shareholders}}{\text{The Average of Year End Equity for the Current \& Previous Year}}$$

$$\text{Earnings Per Share} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$$

Dividends Per Share = Common Dividends Paid per Share During the Year

Payout Ratio = DPS/EPS

Average Market Price\*\* = (Yearly High + Yearly Low Price)/2

Dividend Yield = DPS/ Average Market Price\*\*

Price Earnings Ratio = Average Market Price\*\*/EPS

\*Job Development Credits shall not be included as part of equity capital nor shall a deduction be made from earnings for

a capital charge on these Job Development Credits in Schedule 1.

\*\*An average based on monthly highs and lows is also acceptable. If this alternative is chosen, provide monthly market prices and sufficient data to show how the calculation was made.

### Schedule 2 - Interest and Cash Flow Coverage Data

Instructions: This schedule shall be prepared using the following definitions and instructions ~~given below~~ and presented in the format of the attached schedule. The information shall be provided for the test year and the four prior fiscal years based on information for the ~~Applicant~~ applicant and for the consolidated company if ~~Applicant~~ the applicant is a subsidiary.

- Interest (Lines 3, 4, ~~&~~ and 5) shall include amortization of expenses, discounts, and premiums on debt without deducting an allowance for borrowed funds used during construction.

- Income taxes (Line 2) shall include federal and state income taxes.

- Allowance for Funds Used During Construction ("AFUDC") (Line 8), where applicable, is total AFUDC -- for borrowed and other funds.

- Preferred dividends (Line 13) for a subsidiary may need to be allocated from the parent's total preferred dividends. Specify the allocation factor and the methodology used in a footnote.

- Construction expenditures (Line 15) are net of AFUDC.

- Common dividends (Line 16) for a subsidiary shall be stated per books. If the subsidiary's dividend payout ratio differs from the consolidated company's payout ratio, show in a footnote the subsidiary's common dividends based on the consolidated company's payout ratio.

### Schedule 3 - Capital Structure and Cost of Capital Statement – Per Books and Average

Instructions: This schedule shall show the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, and the component cost and weighted cost, using the format in the attached schedule. The information shall be provided for the test period, the four prior fiscal years, and on a 13-month average or five-quarter average basis for the test period. The data shall be provided for the entity whose capital structure was approved for use in the applicant's last rate case.

In Part A, the information shall be compatible with the latest Stockholders' Annual Report (including any restatements). In Parts B, C, and D, the methodology shall be consistent with that approved in the applicant's last rate case. Reconcile

differences between Parts A and B for both end-of-test-period and average capital structures.

The amounts for short-term debt and revolving credit agreements (and similar arrangements) in Part B shall be based where possible on a daily average over the test year, or alternatively on a 13-month average over the test year. Except for the Part B amount for short-term debt and average amounts in Column (6), all other accounts are end-of-year and end-of-test period.

The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates. The Job Development Credits cost is equal to the weighted cost of permanent capital (long-term debt, preferred stock, and common equity).

~~For investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia, Parts A, B, C, and D shall be based on the utility's actual, end-of-period capital structure.~~

**Schedule 4 - Schedules of Long-Term Debt, Preferred and Preference Stock, Job Development Credits, and Any Other Component of Ratemaking Capital**

Instructions: For each applicable capital component, provide a schedule that shows, for each issue, the amount outstanding, its percentage of the total capital component, and effective cost based on the embedded cost rate. This data shall support the amount and cost rate of the respective capital components contained in Schedule 3, consistent with the methodology approved in the the applicant's last rate case. In addition, a detailed breakdown of all job development credits should be provided that reconciles to the per books balance of investment tax credits. These schedules should reflect disclosure of any associated hedging/derivative instruments, their respective terms and conditions (instrument type, notional amount and associated series of debt or preferred stock hedged, period in effect, etc.), and the impact of such instruments on the cost of debt or preferred stock.

**Schedule 5 - Schedule of Short-Term Debt, Revolving Credit Agreements, and similar Short-Term Financing Arrangements**

Instructions: Utilities that are not subject to § 56-585.1 of the Code of Virginia shall provide data and explain the methodology, which should be consistent with the methodology approved in the applicant's last rate case, used to calculate the cost and balance contained in Schedule 3 for short-term debt, revolving credit agreements, and similar arrangements.

~~Investor-owned electric utilities subject to § 56-585.1 shall file data consistent with the utility's end-of test period capital structure and cost of short-term debt.~~

This schedule should also provide detailed disclosure of any hedging/derivative instruments related to short-term debt, their respective terms and conditions (instrument type, notional amount and associated series of debt hedged, period in effect, etc.), and the impact of such instruments on the cost of short-term debt.

**Schedule 6 - Public Financial Reports**

Instructions: Provide copies of the most recent Stockholder's Annual Report, Securities and Exchange Commission Form 10-K, and Form 10-Q for the applicant and the consolidated parent company if the applicant is a subsidiary. If published, provide a copy of the most recent statistical or financial supplement for the consolidated parent company.

**Schedule 7 - Comparative Financial Statements**

Instructions: If not provided in the public financial reports for Schedule 6, provide comparative balance sheets, income statements, and cash flow statements for the test year and the 12-month period preceding the test year for the applicant and its consolidated parent company if applicant is a subsidiary.

**Schedule 8 - Proposed Cost of Capital Statement**

Instructions: Provide the applicant's proposed capital structure/cost of capital schedule. In conjunction, provide schedules that support the amount and cost of each component of the proposed capital structure, and explain all assumptions used.

**Schedule 9 - Rate of Return Statement – Earnings Test – Per Books**

Instructions: Use format of attached schedule.

Schedule 9 shall reflect average rate base, capital, and common equity capital. Interest expense, preferred dividends, and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.

~~Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1) (3) on Schedule 9.~~

~~**Schedule 10 – Rate of Return Statement – Earnings Test – Generation and Distribution Per Books**~~

~~Instructions:~~

~~Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 10.~~

~~Use format of attached schedule.~~

~~Schedule 10 shall reflect average rate base, capital and common equity capital. Interest expense, preferred dividends and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.~~

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~~Schedule 10 Columns (2) – (3) shall reflect revenues, expenses and rate base for each commission approved rate adjustment clause pursuant to §§ 56-585.1 A 5 b, c and d or A 6 of the Code of Virginia.~~

## **Schedule 11 - Rate of Return Statement – Earnings Test – Adjusted to A Regulatory Accounting Basis**

~~Instructions: For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 11 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 11A, reflecting generation only operation, and Schedule 11B, reflecting distribution only operations, using the same format as Schedule 11. Use format of attached schedule.~~

Schedule 11 adjustments in Column (2) shall reflect any financial differences between Generally Accepted Accounting Principles ("GAAP") and regulatory accounting as prescribed by the commission. Each Column (2) adjustment shall be separately identified and reflected in Schedule 16.

A per books regulatory accounting adjustment to reflect Job Development Credit (JDC) Capital Expense shall be reflected in Schedule 11 Column (2), if applicable. Column (3) JDC Capital Expense shall be calculated as follows:

JDC Capital Expense = Rate Base (line 25) \* weighted cost of JDC Capital in Schedule 3

The associated income tax savings shall be reflected in lines 5 and 6, Column (2) as follows:

Associated income tax savings = total average rate base (line 25) \* weight of JDC capital (Sch. 3) \* weighted cost of debt component of the JDC cost component (Sch. 3) \* (Federal and State Income Tax rate \* -1)

Schedule 11 Line 15 other income/(expense) shown in Column (3) shall be the current amount of other income/(expense) categorized as jurisdictional in the applicant's last rate case.

## **Schedule 12 - Rate Base Statement – Earnings Test – Per Books**

Instructions: Use format of attached schedule.

~~Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1)–(3) on Schedule 12.~~

Applicants with jurisdictional per books operating revenues of more than \$150 million shall calculate cash working capital allowance using a lead/lag study. Schedules 17 and 18 shall be provided detailing the cash working capital computation for Schedule 12 Columns (1) and (3). Applicants with jurisdictional per books operating revenues between \$20 and \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study. Applicants with jurisdictional per books operating revenues less than \$20

million may use a formula method to calculate cash working capital.

## **Schedule 13 – Rate Base Statement – Earnings Test – Generation and Distribution Per Books**

~~Instructions: Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 13.~~

~~For utilities subject to § 56-585.1, Schedule 13 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 13A, reflecting generation only operations, and Schedule 13B, reflecting distribution only operations, using the same format as Schedule 13.~~

~~Use format of attached schedule.~~

~~Schedule 13 Columns (2)–(3) shall reflect rate base information for each commission approved rate adjustment clause pursuant to §§ 56-585.1 A5 b, c and d or A6 of the Code of Virginia.~~

~~Cash working capital allowance shall be calculated using the instructions in Schedule 12.~~

## **Schedule 14 - Rate Base Statement – Earnings Test – Adjusted to Regulatory Accounting Basis**

~~Instructions: For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 14 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 14A, reflecting generation only operations, and Schedule 14B, reflecting distribution only operations, using the same format as Schedule 14. Use format of attached schedule.~~

Cash working capital allowance shall be calculated using the instructions in Schedule 12. Schedule 14 Column (2) shall reflect adjustments necessary to identify any financial differences between Generally Accepted Accounting Principles and regulatory accounting as prescribed by the commission.

## **Schedule 15 - Schedule of Regulatory Assets and Per Books Deferral Pursuant to Enactment Clause 5 of Chapter 3 of the 2004 Acts of Assembly, Special Session I**

Instructions: If applicable per Schedules 9 and 12 instructions. Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 15 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

All regulatory assets shall be individually listed with associated deferred income tax. Indicate whether the regulatory asset is included in financial reporting or is currently recognized for ratemaking purposes only.

**Schedule 16 - Detail of Regulatory Accounting Adjustments**

Instructions: If applicable per Schedules 9 and 12 instructions.

Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 16 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

Each regulatory accounting adjustment shall be numbered sequentially beginning with ET-1 and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).

Each regulatory accounting adjustment shall be fully explained in the description column of this schedule. Regulatory accounting adjustments shall adjust from a financial accounting basis to a regulatory accounting basis. Adjustments to reflect going-forward operations shall not be included on this schedule.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.

**Schedule 17 - Lead/Lag Cash Working Capital Calculation – Earnings Test**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 17 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 17A, reflecting generation only operations, and Schedule 17B, reflecting distribution only operations, using the same format as Schedule 17.~~

Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 18 shall be included in the Total Cash Working Capital amount in this schedule.

The Total Cash Working Capital amount determined in this schedule shall be included in Schedules ~~12-14~~ 12 and 14.

Utilities required to use a lead/lag study should perform a complete lead/lag analysis every five years. Major items, such as the revenue lag and balance sheet accounts, should be reviewed every year.

**Schedule 18 - Balance Sheet Analysis – Earnings Test**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 18 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

All ~~sources/uses~~ uses and sources of cash working capital shall be detailed in this schedule. The associated accumulated

deferred income tax shall also be included as a ~~source/use~~ use or source.

The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 17.

Support for ~~the above schedule~~ Schedule 18 shall include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in ~~(1)~~ (i) the balance sheet analysis, ~~(2)~~ (ii) the capital structure, ~~(3)~~ (iii) the income statement portion of the lead/lag study, or ~~(4)~~ (iv) excluded from cost of service.

**Schedule 19 - Rate of Return Statement – Per Books**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 19 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 19A, reflecting generation only operations, and Schedule 19B, reflecting distribution only operations, using the same format as Schedule 19.~~

~~Utilities not subject to § 56-585.1 shall file only Columns (1) (3) on Schedule 19.~~

Column (1) interest expense, preferred dividends, and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and end of test year level rate base.

~~**Schedule 20 – Rate of Return Statement – Generation and Distribution Per Books**~~

~~Instructions:~~

~~Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 20.~~

~~Schedule 20 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 20A, reflecting generation only operations, and Schedule 20B, reflecting distribution only operations, using the same format as Schedule 20.~~

~~Use format of attached schedule.~~

~~Schedule 20 Columns (2) (4) shall reflect revenues, expenses and rate base for each commission approved rate adjustment clause pursuant to §§ 56-585.1 A 5 b, c and d or A 6 of the Code of Virginia.~~

~~Interest expense, preferred dividends and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and end of test year level rate base.~~

**Schedule 21 - Rate of Return Statement – Reflecting Ratemaking Adjustments**

Instructions: Use format of attached schedule.

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~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 21 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 21A, reflecting generation only operations, and Schedule 21B, reflecting distribution only operations, using the same format as Schedule 21.~~

Schedule 21 Column (2) adjustments shall be separately identified and reflected in Schedule 25.

Interest expense, preferred dividends, and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and an adjusted level of rate base.

After ratemaking adjustments, JDC capital expense shall be calculated as follows:

Total rate base (line 29) \* weighted cost of JDC capital in Schedule 3 or Schedule 8

Applicants filing pursuant to 20VAC5-201-30 may omit columns Columns (4) and (5).

## **Schedule 22 - Rate Base Statement – Per Books**

Instructions: Use format of attached schedule.

~~Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1) (3) on Schedule 22.~~

Applicants with jurisdictional per books operating revenues more than \$150 million shall calculate cash working capital allowance using a lead/lag study. Schedules 27 and 28 shall be provided detailing the cash working capital computation for Columns (1), (3), and (7). Applicants with jurisdictional per books operating revenues between \$20 million and \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study. Applicants with jurisdictional per books operating revenues less than \$20 million may use a formula method to calculate cash working capital.

## ~~**Schedule 23 – Rate Base Statement – Generation and Distribution Per Books**~~

~~Instructions: Use format of attached schedule.~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 23 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 23A, reflecting generation only operations, and Schedule 23B, reflecting distribution only operations, using the same format as Schedule 23.~~

~~Utilities not subject to § 56-585.1 may omit Schedule 23.~~

~~Schedule 23 Columns (2) – (4) shall reflect rate base information for each commission approved rate adjustment clause pursuant to §§ 56-585.1 A 5 b, c and d or A 6 of the Code of Virginia.~~

~~Cash working capital allowance shall be calculated using instructions in Schedule 22.~~

## **Schedule 24 - Rate Base Statement – Adjusted – Reflecting Ratemaking Adjustments**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 24 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 24A, reflecting generation only operations, and Schedule 24B, reflecting distribution only operations, using the same format as Schedule 24.~~

Cash working capital allowance shall be calculated using instructions in Schedule 22.

## **Schedule 25 - Detail of Ratemaking Adjustments**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 25 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

Each adjustment shall be numbered sequentially and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).

Ratemaking adjustments shall reflect a rate year level of revenues and expenses. Rate base adjustments may reflect no more than a rate year average. In Expedited Filings, Column (4) Ratemaking Adjustments shall reflect a rate year level of only those types of adjustments previously approved for the applicant.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.

## **Schedule 26 - Revenue Requirement Reconciliation**

Instructions: Use format of attached lead schedule. An example of a supporting schedule is provided.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 26 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 26A, reflecting generation only operations, and Schedule 26B, reflecting distribution only operations, using the same format as Schedule 26.~~

Provide a revenue reconciliation of each topic or subject that affects the revenue requirement. All components of each topic or subject shall be detailed (i.e., payroll and related = payroll, benefits, payroll taxes, and related tax effect) on a supporting schedule. Cash working capital shall be considered a separate topic or subject rather than as a component of each topic or subject.

**Schedule 27 - Lead/Lag Cash Working Capital Calculation – Adjusted**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 27 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 27A, reflecting generation only operations, and Schedule 27B, reflecting distribution only operations, using the same format as Schedule 27.~~

Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 28 shall be included in the Total Cash Working Capital amount in this schedule.

The Total Cash Working Capital amount determined in this schedule shall be included in Schedules ~~22-24~~ 22 and 24.

Utilities required to use a lead/lag study should perform a complete lead/lag analysis every five years. Major items such as the revenue lag and balance sheet accounts should be reviewed every year.

**Schedule 28 - Balance Sheet Analysis – Adjusted**

Instructions: Use format of attached schedule.

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 28 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

All ~~sources/uses~~ uses and sources of cash working capital shall be detailed in this schedule. The associated accumulated deferred income tax shall also be included as a ~~source/use~~ use or source.

The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 27.

Support for the above schedule should include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in ~~(1)~~ (i) the balance sheet analysis, ~~(2)~~ (ii) the capital structure, ~~(3)~~ (iii) the income statement portion of the lead/lag study, or ~~(4)~~ (iv) excluded from cost of service. Include a brief description of the costs included in each account.

**Schedule 29 - Workpapers for Earnings Test and Ratemaking Adjustments**

Instructions: Include a table of contents listing the work papers included in this schedule.

~~(a)~~ a. Provide a narrative explaining the purpose and methodology used for each adjustment identified in subsections ~~(b) b~~ and ~~(d) below, which d of these instructions~~ d of these instructions that have not been addressed in the applicant's prefiled testimony. Such explanation shall reference any relevant Financial Accounting Standards Board ("FASB") statement or commission precedent if known or available.

~~(b) b~~. Provide a summary calculation of each earnings test adjustment included in Schedule 16. Each summary calculation shall identify the source documents used to prepare such calculation.

~~(c) c~~. Provide all relevant documents, references, and information necessary to support the summary calculation required in subsection ~~(b) b of these instructions~~ for each proposed earnings test adjustment. Amounts identified as per books costs shall include any documentation or references necessary to verify such amount to Schedule 40A. Working papers shall be indexed and tabbed for each adjustment and include the name of the primary employee or employees responsible for the adjustment. All documents and information as referenced above should include, ~~but not be limited to,~~ general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports. Supporting documentation that is voluminous may be made available at the applicant's office.

~~(d) d~~. Provide a summary calculation of each rate year adjustment included in Schedule 25. Each summary calculation shall identify the source documents used to prepare such calculation.

~~(e) e~~. Provide all relevant documents and information necessary to support the summary calculation required in subsection ~~(d) d of these instructions~~ for each proposed rate year adjustment. Amounts identified as per books costs shall include any documentation necessary to verify such amount to Schedule 40b. Working papers shall be indexed and tabbed for each adjustment and include the name of the primary ~~employee or~~ employees responsible for the adjustment. All documents and information as referenced ~~above in subsections a through e of these instructions~~ should include, ~~but not be limited to,~~ general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports.

~~(f) Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall separately identify functional information for each earnings test and proposed rate year adjustment required in subsections (b) and (d).~~

**Schedule 30 - Revenue and Expense Variance Analysis**

Instructions: Applicant shall quantify jurisdictional operating revenues and system operating and maintenance ("O&M") expenses by primary account as specified by the appropriate federal or state Uniform System of Accounts (Federal Energy Regulatory Commission, Federal Communications Commission, National Association of Regulatory Commissioners) (hereinafter referred to as "USOA account") during the test period and the preceding 12 months. Also, provide jurisdictional sales volumes by customer class for the test period.

Applicants shall file a schedule detailing all revenue and expense accounts by month for the test period. ~~For applicants~~

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~~subject to § 56-585.1 of the Code of Virginia, the test period shall be the second year of the two successive year test periods.~~ Applicants shall provide a detailed explanation of all jurisdictional revenue and system expense increases or decreases of more than 10% during the test period compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than one-tenth of one percent (.001) of Operating & Maintenance expenses, excluding ~~fuel factor and~~ purchased gas adjustment costs. Additionally, the applicant shall have an accounts payable ledger or schedule of all accounts payable for review at the applicant's office as of the date of the applicant's filing.

## **Schedule 31 - Advertising Expense**

Instructions: A schedule detailing advertising expense by USOA account and grouped according to the categories identified in § 56-235.2 of the Code of Virginia shall be provided. Advertising costs that are not identifiable to any of those categories shall be included in a separate category titled "other." If applicant seeks rate relief, demonstrate that the applicant's advertising meets the criteria established in § 56-235.2.

## **Schedule 32 – Storm Damage**

~~Instructions: This schedule applies to electric utilities only. Provide a schedule identifying major storm damage expense by month, FERC account and internal or third party cost for the test year and the previous three years. Include a detailed description of the damage sustained, the length of outages associated with the storm damage and work necessary to restore service.~~

## **Schedule 33 – Generating Unit Performance**

~~Instructions: This schedule applies to those applicants subject to § 56-585.1 of the Code of Virginia. Provide a detailed schedule of each generating unit outage or derate identifying whether the outage or derate was planned, maintenance or forced, and start and end dates, cause and cost. Additionally, provide the heat rate, equivalent availability factor, equivalent forced outage rate and net capacity factor for each unit.~~

## **Schedule 34 - Miscellaneous Expenses**

Instructions: Provide a description of amounts paid and USOA accounts charged for each charitable and educational donation, each payment to associated industry organizations, and all other miscellaneous general expenses. Individual items aggregating to less than 5.0% of the total miscellaneous expense may be reflected in an "Other" line item. Advertising expenses included in Schedule 31 should be excluded from this schedule.

## **Schedule 35 - Affiliate Services**

Instructions: For purposes of this schedule affiliate services shall be defined to include those services between regulated

and nonregulated divisions of an incumbent utility. If any portion of the required information has been filed with the commission as part of an applicant's Annual Report of Affiliate Transactions, the applicant may reference such report clearly identifying what portions of the required information are included in the Annual Report of Affiliate Transactions.

Provide a narrative description of each affiliated service received or provided during the test period.

Provide a summary of affiliate transactions detailing costs by type of service provided (e.g., accounting, auditing, legal and regulatory, human resources, etc.) for each month of the test period. Show the final USOA account distribution of all costs billed to or by the regulated entity by month for the test period.

Identify all amounts billed to an affiliate and then billed back to the regulated entity.

Cost records and market analyses supporting all affiliated charges billed to or by the regulated entity/division shall be maintained and made readily available for commission staff review. This shall include supporting detail of costs (including the return component) incurred by the affiliated interest rendering the service and the allocation methodology. In situations when the pricing is required to be the higher (lower) of cost or market and market is unavailable, note each such transaction and have data supporting such a finding available for commission staff review.

If affiliate charges are booked per a pricing mechanism other than that approved by the commission, the regulated entity shall provide a reconciliation of books to commission-approved pricing, including an explanation of why the commission-approved pricing is not used for booking purposes.

## **Schedule 36 - Income Taxes**

Instructions: Provide a schedule detailing the computation of test period current state and federal income taxes on a total company and Virginia jurisdictional basis. Such schedule should provide a complete reconciliation between book and taxable income showing all individual differences. Additionally, provide a schedule detailing the computation of fully adjusted, current state and federal income taxes applicable to the Virginia jurisdiction.

Provide a schedule detailing the individual items of deferred state and federal income tax expense for the test period on a total company and Virginia jurisdictional basis. Additionally, provide a schedule detailing the computation of fully adjusted, deferred state and federal income tax applicable to the Virginia jurisdiction.

Provide a detailed reconciliation between the statutory and effective income tax rates for the test period. Schedule should quantify individual reconciling items by dollar amount and

percentage. Individual items should include ~~but not be limited to~~ permanent differences (itemize), flow-through depreciation, excess deferred FIT amortization, and deferred Investment Tax Credit ("ITC") amortization.

Provide a detailed listing of individual accumulated deferred income tax and accumulated deferred ITC amounts as of the end of test period. Separately identify those items affecting the computation of rate base on both a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax and accumulated deferred ITC amounts for the earnings test rate base (if applicable), the end of test period rate base, and the fully-adjusted rate base, on a Virginia jurisdictional basis.

Provide a detailed reconciliation between the federal and state current tax expense on a stand-alone basis and the actual per book federal and state current tax expense for the test period on a total company and Virginia jurisdictional basis.

Provide a schedule depicting, by month, all federal and state income tax payments made during the test year. For each payment, identify the recipient.

Provide a detailed reconciliation between deferred federal and state income expense computed on a stand-alone basis and the actual per book deferred federal and state income tax expense, on a total company and Virginia jurisdictional basis.

Provide a detailed reconciliation between individual accumulated deferred federal and state income tax assets and liabilities computed on a stand-alone basis and the actual per book accumulated deferred income tax amounts as of the end of the test period, on a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax assets and liabilities computed on a stand-alone basis for the earnings test rate base (if applicable), the end of test period rate base, and the fully-adjusted rate base, on a Virginia jurisdictional basis.

**Schedule 37 - Organization**

Instructions: Provide an organizational chart of the applicant and its parent company detailing subsidiaries and divisions. Provide details of any material corporate reorganizations since the applicant's last rate case. Explain the reasons and any ratemaking impact of each such reorganization.

**Schedule 38 - Changes in Accounting Procedures**

Instructions: Detail any material changes in accounting procedures adopted by either the parent/service company or the utility since the applicant's last rate case. Explain any ratemaking impact of such changes.

Identify any write-offs or write-downs associated with assets (i.e., plant, tax accounts, etc.) that have been retained, transferred, or sold.

**Schedule 39 - Out-of-Period Book Entries**

Instructions: Provide a summary schedule prepared from an analysis of journal entries showing "out-of-period" items booked during the test period. Show journal entry number, amount, USOA account, and explanation of charge.

**Schedule 40 - Jurisdictional and Class Cost of Service Study**

Instructions: Use format of attached schedule.

~~Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide functionally separate schedules for generation, transmission and distribution information for subsections (a), (b) and (c) as well as bundled information. Each functional schedule shall provide separate columns, as applicable, for each rate adjustment clause approved by the commission under § 56-585.1 A 4, 5 or 6.~~

(a) a. Provide detailed calculations for all jurisdictional allocations for each revenue, expense and rate base USOA account used to create ~~Schedules 9 and 10~~ Schedule 9. Allocations should be based on test year average data. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case.

(b) b. Provide detailed calculations for all jurisdictional allocations for each revenue, expense, and rate base USOA account used to create Schedules 19 and 22. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case. ~~For electric utilities, provide the calculations supporting the applicant's line loss percentages. Additionally, clearly show the derivation of the transmission cost components allocated to Virginia.~~

(c) c. Provide a class cost of service study showing the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. ~~Class transmission allocations shall reflect the Virginia retail information that has been converted from the Federal Energy Regulatory Commission (FERC) approved wholesale information. Provide a detailed calculation and explanation showing how the FERC wholesale transmission information is converted to Virginia retail information.~~ Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case.

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# Regulations

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~~(d)~~ d. Applicant shall provide appropriate supporting cost data for new allocation methodologies or rate design proposals in expedited rate applications.

## **Schedule 41 - Proposed Rates and Tariffs**

Instructions: Provide a summary of the rates designed to effect the proposed revenue increase. Provide a copy of all tariff pages that the applicant proposes to revise in this proceeding, with revisions indicated by a dashed line (--) through proposed deletions and by underlining proposed additions.

## **Schedule 42 - Present and Proposed Revenues**

Instructions:

~~(a)~~ a. Provide the detailed calculations supporting total per books revenues in Column (3) of Schedule 21. The present revenues from each of the applicant's services shall be determined by multiplying the current rates times the test period billing units (by rate block, if applicable).

~~(b)~~ b. Provide a detailed calculation supporting total adjusted revenues in Column (5) of Schedule 21. The proposed revenues from each of applicant's services shall be determined by multiplying the proposed rates by the adjusted billing units (by rate block, if applicable). Detail by rate schedule all miscellaneous charges and other revenues, if applicable. Reconcile per books billing units to adjusted billing units itemizing changes such as customer growth, weather, ~~but~~ Btu content and miscellaneous revenues. The revenue changes for applicant's services should be subtotaled into the applicant's traditional categories.

## **Schedule 43 - Sample Billing**

Instructions: ~~Electric, natural~~ Natural gas and water or sewer utilities shall provide a sample billing analysis detailing the effect on each rate schedule at representative levels of consumption.

## **Schedule 44 - Rate Adjustment Clauses Pursuant to § 56-585.1 A 4, 5 or 6 of the Code of Virginia**

Instructions: Use format of attached schedule.

Applicant shall file a Schedule 44 for each rate clause approved by the commission by month for both the first and second year of the two successive 12 month test periods in a biennial review.

Provide a calculation of the Allowance for Funds Used During Construction rate that was recorded during the test year.

Provide support for the monthly Allowance for Funds Used During Construction accruals recorded on the applicant's books.

Provide a schedule of costs for each rate adjustment clause, by month and FERC account, for the test year. Indicate which clauses the applicant will propose to include in future base rates rather than through a separate rate adjustment clause.

## **Schedule 45 - Return on Equity Peer Group Benchmark**

~~Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide all documentation supporting the return on equity benchmark proposed pursuant to § 56-585.1 A 2 a and b of the Code of Virginia. Such documentation shall include a complete list of all potential peer group utilities with corresponding returns calculated for each of the three years within the requisite three year period; Securities and Exchange Commission documents in which such peer group returns are reported for the three year period; a detailed explanation of why utilities were excluded from the proxy group, and a spreadsheet showing how such returns were calculated.~~

## **Schedule 46 - Projected Rate Adjustment Clause Pursuant to § 56-585.1 A 4, A 5 b, c and d or A 6 of the Code of Virginia**

~~Instructions: Applicant shall provide a schedule of all projected costs by type of cost and year associated with each rate adjustment clause pursuant to § 56-585.1 A 4, A 5 b, c and d or A 6 of the Code of Virginia that has been approved by the commission or for which the applicant is seeking initial approval.~~

~~Provide all documents, contracts, studies, investigations or correspondence that support projected costs proposed to be recovered via a rate adjustment clause.~~

~~Provide the annual revenue requirement over the duration of the proposed rate adjustment clause by year and by class.~~

~~Provide a detailed description of all significant accounting procedures and internal controls that the company will institute to identify all costs associated with each rate adjustment clause.~~

~~(a) For a rate adjustment clause filed pursuant to § 56-585.1 A 4 of the Code of Virginia provide the docket/case number and FERC ruling approving the wholesale transmission rate/cost for which the applicant is seeking recovery approval.~~

~~(b) For a rate adjustment clause filed pursuant to § 56-585.1 A 6 of the Code of Virginia provide information relative to the need and prudence of proposed generating unit addition(s).~~

~~Applications for rate adjustment clauses for the recovery of costs of proposed new generating facilities should also provide the following information to demonstrate the reasonableness and prudence of the selection of such facilities:~~

- ~~(a) Feasibility and engineering design studies that support the specific plant type and site selected;~~
- ~~(b) Fuel supply studies that demonstrate the availability and adequacy of selected fuels;~~
- ~~(c) Detailed support for planning assumptions regarding plant performance and operating costs, including historical information for similar units;~~
- ~~(d) Economic studies that compare the selected alternative with other options considered, including sensitivity analyses and production costing simulations of the applicant's overall generating resources that demonstrate that the selected option is the best alternative;~~
- ~~(e) Load and generating capacity reserve forecast information that demonstrates the need for the plant in the in-service year proposed; and~~
- ~~(f) Detailed cost estimate for the facility, included projected costs of construction, transmission interconnections, fuel supply related infrastructure improvements and project financing.~~

~~Provide detailed information relative to the applicant's methodology for allocating the revenue requirement among rate classes and the design of the class rates.~~

**Schedule 47 - Total Aggregated Revenues and Consumer Price Index ("CPI")**

~~Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall file the following:~~

- ~~(a) A detailed schedule showing the calculation of total aggregate regulated rates as defined in § 56-585.1 A-9 of the Code of Virginia for each year beginning with calendar year 2010.~~
- ~~(b) A schedule of annual increases in the United States Average Consumer Price Index as described in § 56-585.1 A-9 beginning with calendar year 2010. Additionally, include the annual compounded amount.~~

**Schedule 48 - Conservation and Ratemaking Efficiency Plans**

Instructions: Applications made pursuant to § 56-602 A and B or § 56-602 A and C of the Code of Virginia shall file the following:

- (1) a. Provide the revenue study or class cost of service study relied upon to establish annual per-customer fixed costs on an intraclass basis.
- (2) b. Provide detailed calculations supporting determinations of current class, normalized or proposed class revenues. Such calculations should clearly show current, normalized or proposed annual billing determinants (by rate block and class). Reconcile per books billing units to adjusted billing units itemizing

changes such as customer growth, weather, and ~~but~~ Btu content and miscellaneous revenues.

(3) c. Provide detailed calculations supporting the revenues produced by the rates, tariff design or mechanism designed to effect the proposed conservation and ratemaking efficiency plan. Provide illustrative examples if necessary. Detail by rate schedule all miscellaneous charges and other revenues, if applicable. To the extent any of the information requested in this paragraph has been provided in (2) above subsection b of these instructions, it does not need to be restated.

(4) d. Provide a sample billing analysis detailing the effect of the proposed rates, tariff design or mechanism designed to effect the proposed conservation or ratemaking efficiency plan on each rate schedule at representative levels of consumption.

(5) e. Provide the detailed calculations showing that the rates, tariff design or mechanism designed to effect the proposed conservation and ratemaking plan is revenue neutral as defined in Chapter 25 (§ 56-600 et seq.) of Title 56 of the Code of Virginia.

(6) f. Provide a copy of all tariff pages that the applicant proposes to revise in this proceeding, with deletions indicated by a dashed line (--) and additions indicated by an underscore.

(7) g. Provide a detailed description and analysis of the proposed conservation program or programs and a cost benefit assessment of the program or programs using the Total Resource Cost Test, the Societal Test, the Program Administrator Test, the Participant Test, and the Rate Impact Measure Test. Detail and support all assumptions utilized in the cost benefit assessments.

(8) h. Provide a detailed narrative describing the proposed normalization component that removes the effect of weather from the determination of conservation and energy efficiency results. Additionally, provide any supporting calculation of such component.

(9) i. Provide a detailed narrative describing the proposed decoupling mechanism.

(10) j. Provide a detailed narrative describing all proposed cost-effective conservation and energy efficiency plans.

(11) k. Provide a detailed narrative describing the provisions addressing the needs of low-income or low-usage residential customers.

(12) l. Provide a detailed narrative describing provisions ensuring that rates and services to nonparticipating classes of customers are not adversely impacted. Additionally, provide all studies or calculations supporting such conclusions.

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# Regulations

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## **Schedule 49—Data Pertaining to Nationally Recognized Standards for Generating Plant Performance, Customer Service, and Operating Efficiency**

Instructions: Investor owned incumbent electric utilities subject to § 56-585.1 A-2 c of the Code of Virginia shall, unless otherwise exempted from these instructions, file the information listed in paragraph (a), and paragraph (b) if applicable, of this schedule, using the definitions provided below. Unless otherwise specified, the minimum filing requirements shall include annual weighted averages, separately, for each of the most recent consecutive six years of data including the biennial period under review. Where weighted averages are not available, simple averages are acceptable. Averages shall be identified as weighted or simple. Where six years of data is not available when filed, the reason shall be stated and the data shall be provided as soon as it becomes available, if at all. In the IOU's initial filing under these rules, the IOU may propose and support a different benchmark group for each operating efficiency performance measure. Once the commission establishes a benchmark group for an operating efficiency performance measure, the benchmark group shall apply to the operating efficiency performance measure in all of the IOU's future filings under these rules unless otherwise ordered by the commission. To the extent practical, data should be obtained from publically available sources such as SEC, FERC, EIA, and RTO. In the event the required filing information is not available, the IOU shall note the omission and state the reason. Investor owned incumbent electric utilities receiving an RPS Performance Incentive pursuant to § 56-585.2 C of the Code of Virginia and not seeking a Performance Incentive pursuant to § 56-585.1 A-2 c of the Code of Virginia of more than 50 basis points need not submit Schedule 49.

### Definitions for Schedule 49:

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

"Average retail price" or "total average retail rate" means total annual revenues per annual kWh of sales as reported to EEI.

"Average speed of answer" or "ASA" means the average time in seconds that callers experience in a queue to reach an agent or to initiate a transaction through an interactive voice response system.

"Benchmark group" means one of the following groups of investor owned electric utilities proposed by the IOU for an operating efficiency performance measure: MACRUC, ROE Peer Group, RTO, SEARUC, and SEE. The IOU may propose and support the use of an alternative group of investor owned electric utilities determined by an independent expert to be a valid comparable group.

"Btu" means British thermal unit.

"EEI" means the Edison Electric Institute.

"EIA" means the United States Energy Information Administration.

"Equivalent availability factor" or "EAF" means the fraction of a given operating period in which a generating unit is available without any outages and equipment or seasonal deratings.

"Equivalent forced outage rate on demand" or "EFORD" means a measure of the probability that a generating unit will not be available due to forced outages or forced deratings when there is demand on the unit to generate. When used as a measure of historical performance, EFORD is calculated as the percentage of total demand time that a unit was unavailable due to forced outages or deratings.

"FERC" means the Federal Energy Regulatory Commission or its successor agency.

"FERC Form 1" means 18 CFR 141.1, FERC Form No. 1, Annual Report of Major Electric Utilities, Licensees, and Others.

"Fleet maintenance cost" means the sum of all plants' maintenance costs from FERC Form 1, pages 402 and 403, lines 29-33.

"Heat rate" or "HR" means how efficiently a generator converts heat energy from fuel into electrical energy. Heat rate is calculated by dividing the thermal energy consumption by the electric energy generated (Btu/kWh).

"IOU" means investor owned incumbent electric utility.

"Interactive voice response" or "IVR" means a technology that automates the interaction between the utility and its customer.

"ITP" means the NRC's industry trends program.

"kWh" means kilowatt hour.

"Large coal plant or plants" means a location having coal-fired generation capacity of greater than 400 MW, excluding coal units with capacities of less than 200 MW.

"MACRUC utility" means a regulated investor owned electric utility having generation, transmission, and distribution business within the member states of the Mid-Atlantic Conference of Regulatory Utilities Commissioners or its successor organization.

"MW" means megawatt.

"MWh" means megawatt hour.

"NERC" means the North American Electric Reliability Corporation or its successor organization.

"Net capacity factor (nuclear)" or "NCF (nuclear)" means the fraction of net energy generated by a nuclear unit

compared to the energy it could have generated if operated at the net maximum dependable capacity for a year.

"NRC" means the United States Nuclear Regulatory Commission or its successor agency.

"O&M" means operations and maintenance.

"O&M efficiency" means total electric O&M expense (from FERC Form 1, page 323, line 198) as a percent of total assets (from FERC Form 1, page 111, line 85) (or \$ per MWh or \$ per customer).

"Plant production cost" means total production expense per MWh of net output.

"PWR" means pressurized water reactor.

"ROE peer group" means the investor owned electric utilities defined under § 56.585.1 A 2 b of the Code of Virginia.

"RTO" means the regional transmission organization of which the IOU is a member.

"SEARUC utility" means a regulated investor owned electric utility having generation, transmission, and distribution business within the member states of the Southeastern Association of Regulatory Utility Commissioners or its successor organization.

"SEC" means the United States Securities and Exchange Commission.

"SEE utility" means a regulated investor owned electric utility member of the Southeastern Electric Exchange or its successor organization having generation, transmission, and distribution business.

"Service level" means the percentage of calls that are answered by a call center agent or an IVR within 30 seconds.

"System average interruption duration index" or "SAIDI" means the total duration of interruption for the average customer on an annual basis. SAIDI equals the sum of customer interruption durations divided by the average total number of customers served.

"System average interruption frequency index" or "SAIFI" means the average number of interruptions that a customer would experience on an annual basis, expressed as a number. SAIFI equals the sum of customer interruptions divided by an average total number of customers served.

"XEFORd" means a measure of the probability that a generating unit will not be available due to forced outages or forced deratings when there is demand on the unit to generate which is the same as EFORd, but excludes events that are designated as outside management's control.

## Filing Requirements:

(a) IOUs subject to § 56.585.1 A 2 c of the Code of Virginia shall file the following data for the IOU and, separately, for each of the additional listed entities:

### Generating plant performance

1. EFORd for the system fleet and nonnuclear fleet for NERC and the RTO, weighted by the IOU's generation capacity per class;

2. EFORd for each of the following generation class categories for NERC and the RTO: fossil all fuel types; fossil coal primary; fossil coal primary 200-599 MW; fossil coal primary 600 MW plus; fluidized bed; combined cycle; gas turbine; and pumped storage;

3. XEFORd for the RTO;

4. EAF for each of the following generation class categories for NERC and the RTO: fossil all fuel types; fossil coal primary; fossil coal primary 200-599 MW; fossil coal primary 600 MW plus; fluidized bed; combined cycle; gas turbine; and pumped storage; and

5. Average heat rates for United States coal (steam turbine) fleet and natural gas (combined cycle) fleet as reported by EIA.

### Customer service

1. SAIDI both including and excluding major storms (or major events) for each RTO utility and each MACRUC or SEARUC utility with more than 500,000 customers;

2. SAIFI both including and excluding major storms (or major events) for each RTO utility and each MACRUC or SEARUC utility with more than 500,000 customers; and

3. ASA or service level both including and excluding calls handled by an IVR for each RTO utility and each MACRUC or SEARUC utility with greater than 500,000 customers.

### Operating efficiency

1. Total average retail rates for the South Atlantic (as defined by EEI), the United States, and each utility in the proposed benchmark group;

2. O&M efficiency for each utility in the proposed benchmark group;

3. Large coal plant production costs for each utility in the proposed benchmark group; and

4. Combined cycle plant production costs for each utility in the proposed benchmark group.

### Additional data

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# Regulations

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- ~~1. Identify the proposed return on equity basis point increase and the revenue requirement impact associated with the proposed performance incentive award;~~
- ~~2. For the biennial period under review, identify, to the extent chosen by the IOU, the specific actions taken by the IOU to improve generating plant performance, customer service, and operating efficiency and the incremental costs associated with such specific actions;~~
- ~~3. Identify, explain, and quantify to the extent possible chosen by the IOU the specific benefits (financial and otherwise) that customers received during the previous biennial review period as a result of the specific actions taken by the IOU to improve generating plant performance, customer service, and operating efficiency;~~
- ~~4. Fleet maintenance costs and total electricity generated;~~
- ~~5. Total distribution reliability improvement expense and distribution circuit miles; and~~
- ~~6. Total routine, tree removal, and hot spot trimming expense and miles of right of way managed.~~

~~(b) In addition to the information required in paragraph (a) of this schedule, IOUs subject to § 56-585.1 A 2 c of the Code of Virginia that own and operate nuclear power~~

~~plants shall file the following data for the IOU and, separately, for each of the additional listed entities:~~

- ~~1. NCF (nuclear) for the United States nuclear industry and 800-999 MW PWRs;~~
- ~~2. NCF (nuclear) top quartile, median, and bottom quartile over the most recent three year period (including the two years of the biennial period under review, if available) for the United States nuclear industry and 800-999 MW PWRs;~~
- ~~3. Most recent three year average (including the two years of the biennial period under review, if available) and ranking by NCF (nuclear) of the top ranked PWR and each of the IOU's nuclear power plant units;~~
- ~~4. Nuclear plant production cost for 800-999 MW PWRs and each of the IOU's nuclear power stations; and~~
- ~~5. NRC ITP indicators for the IOU and nuclear industry (automatic reactor scrams while critical and significant events).~~

## Schedule 50 - Additional Schedules

Reserved for additional exhibits presented by the applicant to be labeled Schedule 50 et seq.

### 20VAC5-201-95. Schedules 1 through 14 and exhibits for Chapter 201.

The following schedules and exhibits are to be used in conjunction with this chapter.

COMPANY NAME  
HISTORIC PROFITABILITY AND MARKET DATA  
CASE NO. PUE-----

Exhibit No.: \_\_\_\_\_  
Witness: \_\_\_\_\_  
Schedule 1

Consolidated Company Profitability and Capital Market Data    4th Year Prior    3rd Year Prior    2nd Year Prior    1st Year Prior    Test Period

#### A. Ratios

Return on Year End Equity

Return on Average Equity

Earnings Per Share

Dividends Per Share

Payout Ratio

Market Price of Common Stock:

Year's High

Year's Low

Average Price

Dividend Yield on Common Stock:

Price Earnings Ratio

B. External Funds Raised

External Funds Raised - Debt:

Dollar Amount Raised

Coupon Rate

Bond Rating(s)

(Rating Service)

External Funds Raised - Preferred Stock:

Dollar Amount Raised

Dividend Rate

Preferred Stock Rating(s)

(Rating Service)

External Funds Raised - Common Equity

Dollar Amount from Public Offering

Number Shares Issued

Average Offering Price

C. Subsidiary Data

Return on Year End Equity

Return on Average Equity

External Funds Raised - Bonds:

Dollar Amount Raised

Coupon Rate

Bond Rating(s)

(Rating Service)

External Funds Raised - Preferred Stock

Dollar Amount Raised

Dividend Rate

Preferred Stock Rating(s)

(Rating Service)

Equity Capital Transfer

From Parent

(Dollar Amount-Net)

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# Regulations

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COMPANY NAME  
INTEREST AND CASH FLOW COVERAGE DATA  
CASE NO. PUE-----

Exhibit No.: \_\_\_\_\_  
Witness: \_\_\_\_\_  
Schedule 2

Coverage Ratios and Cash Flow Profile Data      4th Year Prior   3rd Year Prior   2nd Year Prior   1st Year Prior   Test Period

## A. Consolidated Company Data

### Interest Coverage Ratio

Pre-Tax

### Cash Flow Coverage Ratios

- a. Common Dividend Coverage
- b. Cash Flow Coverage of Construction Expenditures
- c. Cash After Dividends Coverage of Construction Expenditures

### Data for Interest Coverage

- 1 Net Income
- 2 Income Taxes
- 3 Interest on Mortgages
- 4 Other Interest
- 5 Total Interest
- 6 Earnings Before Interest and Taxes (Lines 1+2+5)

### Data for Cash Flow Coverage

- 7 Net Income
- 8 AFUDC
- 9 Amortization
- 10 Depreciation
- 11 Change in Deferred Taxes
- 12 Change in Investment Tax Credits
- 13 Preferred Dividends Paid
- 14 Cash Flow Generated (Lines 1-8+9+10+11+12-13)
- 15 Construction Expenditures
- 16 Common Dividends Paid

## B. Subsidiary Data

### Interest Coverage Ratio

Pre-Tax (Line 6 / Line 5)

### Cash Flow Coverage Ratios

- a. Common Dividend Coverage (Line 14 / 16)
- b. Cash Flow Coverage of Construction Expenditures (Line 14 / 15)

c. Cash After Dividends Coverage of Construction Expenditures ((Lines 14-16) / 15)

Data for Interest Coverage

- 1 Net Income
- 2 Income Taxes
- 3 Interest on Mortgages
- 4 Other Interest
- 5 Total Interest
- 6 Earnings Before Interest and Taxes

Data for Cash Flow Coverage

- 7 Net Income
- 8 AFUDC
- 9 Amortization
- 10 Depreciation
- 11 Change in Deferred Taxes
- 12 Change in Investment Tax Credits
- 13 Preferred Dividends Paid
- 14 Cash Flow Generated
- 15 Construction Expenditures
- 16 Common Dividends Paid

COMPANY NAME  
CAPITAL STRUCTURE AND COST OF CAPITAL STATEMENT - PER BOOKS AND AVERAGE  
CASE NO. PUE-----

Exhibit No.: \_\_  
Witness: \_\_\_\_  
Schedule 3

	(1)	(2)	(3)	(4)	(5)	(6)
	4th Year Prior	3rd Year Prior	2nd Year Prior	1st Year Prior	Test Period	Five-Quarter or 13- Month Average

A. Capital Structure Per Balance Sheet (\$)

- Short-Term Debt
- Customer Deposits
- Other Current Liabilities
- Long-Term Debt
- Preferred & Preference Stock
- Common Equity
- Investment Tax Credits
- Other Tax Deferrals
- Other Liabilities
- Total Capitalization

B. Capital Structure Approved for Ratemaking Purposes (\$)

- Short-Term Debt
- Long-Term Debt
- Preferred & Preference Stock
- Job Development Credits
- Common Equity
- Other (specify)
- Total Capitalization

# Regulations

## C. Capital Structure Weights for Ratemaking Purposes

Short-Term Debt  
 Long-Term Debt  
 Preferred & Preference Stock  
 Job Development Credits  
 Common Equity  
 Other (specify)  
 Total Capitalization (100%)

## D. Component Capital Cost Rates (%)

Short-Term Debt  
 Long-Term Debt  
 Preferred & Preference Stock  
 Job Development Credits  
 Common Equity (Authorized)  
 Other (specify)

## E. Component Weighted Cost Rates (%)

Short-Term Debt  
 Long-Term Debt  
 Preferred & Preference Stock  
 Job Development Credits  
 Common Equity (Authorized)  
 Other (specify)  
 Weighted Cost of Capital

COMPANY NAME RATE OF RETURN STATEMENT - EARNINGS TEST - PER BOOKS FOR THE TEST YEAR ENDED --/--/-- USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY								Exhibit No.: _____ Witness: _____ Schedule 9
LINE NO.	(1) Total Company	(2) Non-Jurisdictional	(3) Virginia Cost of Service Amount (1)-(2)	(4) Retail Transmission Per Books	(5) Generation Per Books	(6) Distribution Per Books	(7) Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)	
1	OPERATING REVENUE							
2	OPERATING REVENUE DEDUCTIONS							
3	OPERATION & MAINTENANCE EXPENSE							
4	DEPRECIATION & AMORTIZATION							
5	FEDERAL INCOME TAXES							
6	STATE INCOME TAXES							
7	TAXES OTHER THAN INCOME TAXES							
8	(GAIN)/LOSS ON DISPOSITION OF PROPERTY							
9	TOTAL OPERATING REVENUE DEDUCTIONS							
10	OPERATING INCOME							
11	PLUS: AFUDC							
12	LESS: CHARITABLE DONATIONS							

13	INTEREST EXPENSE ON CUSTOMER DEPOSITS								
14	INTEREST ON SUPPLIER REFUNDS								
15	OTHER INTEREST EXPENSE/(INCOME)								
16	ADJUSTED OPERATING INCOME								
17	PLUS: OTHER INCOME/ (EXPENSE)								
18	LESS: INTEREST EXPENSE-BOOKED								
19	PREFERRED DIVIDENDS								
20	JDC CAPITAL EXPENSE	n/a							
21	INCOME AVAILABLE FOR COMMON EQUITY								
22	ALLOWANCE FOR WORKING CAPITAL								
23	PLUS: NET UTILITY PLANT								
24	LESS: OTHER RATE BASE DEDUCTIONS								
25	TOTAL AVERAGE RATE BASE								
26	TOTAL AVERAGE CAPITAL								
27	AVERAGE COMMON EQUITY CAPITAL								
28	% RATE OF RETURN EARNED ON AVG. RATE BASE								
29	% RATE OF RETURN EARNED ON AVG. COMMON EQ.								

Notes:

For utilities subject to § 56-585.1 of the Code of Virginia, Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

# Regulations

COMPANY NAME  
 RATE OF RETURN STATEMENT – EARNINGS TEST  
 GENERATION AND DISTRIBUTION – PER BOOKS FOR THE TEST YEAR ENDED ---/---/---  
 USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule 10

		(1)	(2)	(3)		(4)
		Virginia Juris. Cost of Service Including Rate Adjusting Clauses	Rate Adjustment Clause Pursuant to § 56-585.1 A 5 b, e or d	Rate Adjustment Clause Pursuant to § 56-585.1 A 6		Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses (1) - (2) - (3)
LINE NO.						
1	OPERATING REVENUE					
2	OPERATING REVENUE DEDUCTIONS					
3	OPERATION & MAINTENANCE EXPENSE					
4	DEPRECIATION & AMORTIZATION					
5	FEDERAL INCOME TAXES					
6	STATE INCOME TAXES					
7	TAXES OTHER THAN INCOME TAXES					
8	(GAIN)/LOSS ON DISPOSITION OF PROPERTY					
9	TOTAL OPERATING REVENUE DEDUCTIONS					
10	OPERATING INCOME					
11	PLUS:    AFUDC					
12	LESS:    CHARITABLE DONATIONS					
13	INTEREST EXPENSE ON CUSTOMER DEPOSITS					
14	INTEREST ON SUPPLIER REFUNDS					
15	OTHER INTEREST EXPENSE/(INCOME)					
16	ADJUSTED OPERATING INCOME					
17	PLUS:    OTHER INCOME/(EXPENSE)					
18	LESS:    INTEREST EXPENSE-BOOKED					
19	PREFERRED DIVIDENDS					
20	JDC CAPITAL EXPENSE	n/a	n/a	n/a		n/a
21	INCOME AVAILABLE FOR COMMON EQUITY					
22	ALLOWANCE FOR WORKING CAPITAL					
23	PLUS:    NET UTILITY PLANT					
24	LESS:    OTHER RATE BASE DEDUCTIONS					
25	TOTAL AVERAGE RATE BASE					
26	TOTAL AVERAGE CAPITAL					
27	AVERAGE COMMON EQUITY CAPITAL					
28	% RATE OF RETURN EARNED ON AVG. RATE BASE					
29	% RATE OF RETURN EARNED ON AVG. COMMON EQ.					

**Note:**

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 9 Column (7).

COMPANY NAME  
 RATE OF RETURN STATEMENT - EARNINGS TEST  
 ADJUSTED TO A REGULATORY ACCOUNTING BASIS FOR THE TEST YEAR ENDED --/--/--  
 USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY

Exhibit No.: \_\_\_\_  
 Witness: \_\_\_\_  
 Schedule 11

		(1)	(2)	(3)
LINE NO.		Per Books Virginia Juris. Cost of Service	Regulatory Accounting Adjustments	Virginia Jurisdictional Cost of Service after Adjustments (1)+(2)
1	OPERATING REVENUE			
2	OPERATING REVENUE DEDUCTIONS			
3	OPERATION & MAINTENANCE EXPENSE			
4	DEPRECIATION & AMORTIZATION			
5	FEDERAL INCOME TAXES			
6	STATE INCOME TAXES			
7	TAXES OTHER THAN INCOME TAXES			
8	(GAIN)/LOSS ON DISPOSITION OF PROPERTY			
9	TOTAL OPERATING REVENUE DEDUCTIONS			
10	OPERATING INCOME			
11	PLUS: AFUDC			
12	LESS: CHARITABLE DONATIONS			
13	INTEREST EXPENSE ON CUSTOMER DEPOSITS			
14	INTEREST ON SUPPLIER REFUNDS			
15	OTHER INTEREST EXPENSE/(INCOME)			
16	ADJUSTED OPERATING INCOME			
17	PLUS: OTHER INCOME/(EXPENSE)			
18	LESS: INTEREST EXPENSE-BOOKED			
19	PREFERRED DIVIDENDS			
20	JDC CAPITAL EXPENSE			
21	INCOME AVAILABLE FOR COMMON EQUITY			
22	ALLOWANCE FOR WORKING CAPITAL			
23	PLUS: NET UTILITY PLANT			
24	LESS: OTHER RATE BASE DEDUCTIONS			
25	TOTAL AVERAGE RATE BASE			
26	TOTAL AVERAGE CAPITAL			
27	AVERAGE COMMON EQUITY CAPITAL			
28	% RATE OF RETURN EARNED ON AVG. RATE BASE			
29	% RATE OF RETURN EARNED ON AVG. COMMON EQ.			

**Note:**

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 10 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 shall come from Schedule 9 Column (3).

# Regulations

COMPANY NAME  
RATE BASE STATEMENT - EARNINGS TEST - PER BOOKS  
THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE

Exhibit No.: \_\_\_\_\_  
Witness: \_\_\_\_\_  
Schedule 12

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
LINE NO.	Total Company	Non-Jurisdictional	Virginia Cost of Service Amount (1)-(2)	Retail Transmission Per Books	Generation Per Books	Distribution Per Books	Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							
21							

22 TOTAL AVERAGE RATE  
BASE

Note:

For utilities subject to § 56-585.1 of the Code of Virginia, Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

	COMPANY NAME RATE BASE STATEMENT—EARNINGS TEST GENERATION AND DISTRIBUTION PER BOOKS THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE		Exhibit No.: _____ Witness: _____ Schedule 13	
LINE NO.	(1)	(2)	(3)	(4)
	Virginia Juris. Cost of Service Including Rate Adjustment Clauses	Rate Adjustment Clause Pursuant to § 56-585.1-A 5 b, c or d	Rate Adjustment Clause Pursuant to § 56-585.1-A 6	Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses (1)-(2)-(3)
1	ALLOWANCE FOR WORKING CAPITAL			
2	MATERIAL AND SUPPLIES			
3	CASH WORKING CAPITAL (LEAD LAG STUDY)			
4	DEFERRED FUEL/DEFERRED GAS NET OF FIT			
5	OTHER WORKING CAPITAL			
6	TOTAL ALLOWANCE FOR WORKING CAPITAL			
7	NET UTILITY PLANT			
8	UTILITY PLANT IN SERVICE			
9	ACQUISITION ADJUSTMENTS			
10	CONSTRUCTION WORK IN PROGRESS			
11	PLANT HELD FOR FUTURE USE			
12	LESS: ACCUMULATED PROVISION FOR DEPRECIATION			
13	AND AMORTIZATION			
14	CUSTOMER ADVANCES FOR CONSTRUCTION			
15	TOTAL NET UTILITY PLANT			
16	RATE BASE DEDUCTIONS			
17	CUSTOMER DEPOSITS			
18	SUPPLIER REFUNDS			
19	ACCUMULATED DEFERRED INCOME TAXES			
20	OTHER COST FREE CAPITAL			
21	TOTAL RATE BASE DEDUCTIONS			
22	TOTAL AVERAGE RATE BASE			

Note:

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 12 Column (7).

# Regulations

COMPANY NAME  
 RATE BASE STATEMENT - EARNINGS TEST  
 ADJUSTED TO A REGULATORY ACCOUNTING BASIS  
 THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule 14

LINE NO.	(1) Per Books Virginia Juris. Cost of Service	(2) Regulatory Accounting Adjustments	(3) Virginia Jurisdictional Cost of Service after Adjustments (1)+(2)
1	ALLOWANCE FOR WORKING CAPITAL		
2	MATERIAL AND SUPPLIES		
3	CASH WORKING CAPITAL (LEAD LAG STUDY)		
4	DEFERRED FUEL/DEFERRED GAS NET OF FIT		
5	OTHER WORKING CAPITAL		
6	TOTAL ALLOWANCE FOR WORKING CAPITAL		
7	NET UTILITY PLANT		
8	UTILITY PLANT IN SERVICE		
9	ACQUISITION ADJUSTMENTS		
10	CONSTRUCTION WORK IN PROGRESS		
11	PLANT HELD FOR FUTURE USE		
12	LESS: ACCUMULATED PROVISION FOR DEPRECIATION		
13	AND AMORTIZATION		
14	CUSTOMER ADVANCES FOR CONSTRUCTION		
15	TOTAL NET UTILITY PLANT		
16	RATE BASE DEDUCTIONS		
17	CUSTOMER DEPOSITS		
18	SUPPLIER REFUNDS		
19	ACCUMULATED DEFERRED INCOME TAXES		
20	OTHER COST FREE CAPITAL		
21	TOTAL RATE BASE DEDUCTIONS		
22	TOTAL AVERAGE RATE BASE		

**Notes:**

~~Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 13 Column (4) and shall exclude Rate Adjustment Clauses.~~

~~Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 12 Column (3).~~

**20VAC5-201-100. Schedules 15 through 22 and exhibits for Chapter 201.**

The following schedules and exhibits are to be used in conjunction with this chapter.

		COMPANY NAME SCHEDULE OF REGULATORY ASSETS AS OF --/--/--				Exhibit No.: ____ Witness: ____ Schedule 15	
Account Number	Description	(1) Start of Year Date System Amount	(2) Year Juris. Factor	(3) Start of Year Date Juris. Amount	(4) Test Year Amortization Expense	(5) Test Year Accruals	(6) End of Year Date Adjusted Amount
_____	Individual Regulatory Asset						
_____	Related Deferred Income Tax						
_____	Individual Regulatory Asset						
_____	Related Deferred Income Tax						
_____	Individual Regulatory Asset						
_____	Related Deferred Income Tax						
Totals							

		Exhibit No.: _____ Witness: _____ Schedule 16	
ADJ. NO.	ADJUSTMENT	AMOUNT	
	<b>INCOME ADJUSTMENTS</b>		
	OPERATING REVENUE ADJUSTMENTS		
	OPERATION AND MAINTENANCE EXPENSE ADJUSTMENTS		
	DEPRECIATION EXPENSE ADJUSTMENTS		
	INCOME TAXES ADJUSTMENTS		
	TAXES OTHER THAN INCOME ADJUSTMENTS		
	GAIN ON PROPERTY DISPOSITION ADJUSTMENTS		
	CHARITABLE DONATIONS ADJUSTMENTS		
	OTHER INTEREST EXPENSE/(INCOME) ADJUSTMENTS		
	INTEREST EXPENSE ADJUSTMENTS		
	PREFERRED DIVIDENDS ADJUSTMENTS		
	JDC CAPITAL EXPENSE ADJUSTMENTS		
	ALLOWANCE FOR WORKING CAPITAL ADJUSTMENTS		
	ELECTRIC PLANT IN SERVICE ADJUSTMENTS		

# Regulations

PLANT HELD FOR FUTURE USE ADJUSTMENTS  
 CONSTRUCTION WORK IN PROGRESS ADJUSTMENTS  
 ACCUMULATED DEPRECIATION AND AMORTIZATION ADJUSTMENTS  
 OTHER RATE BASE DEDUCTIONS ADJUSTMENTS  
 COMMON EQUITY CAPITAL ADJUSTMENTS

COMPANY NAME  
 LEAD/LAG CASH WORKING CAPITAL CALCULATION - EARNINGS TEST  
 FOR THE YEAR ENDED --/--/--  
 SUPPORTING COLUMN -- OF SCHEDULE --

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule 17

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Virginia Juris. Per Books Amounts	Per Books Regulatory Accounting Adjustments	Amounts After Adj.	Average Daily Amount	Expense (Lead)/Lag Days	Revenue Lag	Net (Lead)/Lag Days	Working Capital (Provided)/ Required

**OPERATING  
EXPENSES**

O&M Expenses:

Account # -  
Fuel Clause

Account # -  
Fuel Clause

Account # -  
Fuel Clause

Account # -  
Deferred Fuel

Payroll  
Expense

Benefits and  
Pension  
Expense

OPEB Expense

Regulatory  
Asset  
Amortization  
Expense

Uncollectible  
Expense

Stores Issues

Stored  
Undistributed

Accrued  
Vacation  
Expense

Prepaid  
Insurance  
Amortization  
Expense

Worker's  
Compensation  
Expense

Directors'  
Deferred  
Compensation  
Exp.

Storm Damage  
Expense

Transition Cost  
Expense

Restructuring  
Expense

Contingent  
Liabilities

Other O&M  
Expenses

Depreciation  
Expense:

Depreciation  
Expense

Amortization  
Expense

Amortization  
Expense

Amortization of  
Regulatory  
Assets

Federal Income  
Taxes:

Current

Deferred

DFIT on items  
excluded from  
Rate Base

Deferred ITC

State Income Tax  
Expense

Taxes Other Than  
Income:

Property Tax  
Expense

Valuation Tax  
Expense

Business and  
Occupation Tax  
Expense

Payroll Tax  
Expense

Other Taxes

AFUDC

Gain/Loss of  
Disposition of  
Property

Charitable Donations

# Regulations

Interest on Customer  
Deposits

Other  
Expense/Income  
(A-t-1)

Other  
Income/Expense  
(B-t-1)

Interest Expense

Preferred Dividends

JDC Expense

Income Available for  
Common Equity

**Totals**

**Plus: Customer  
Utility Taxes**

## BALANCE SHEET ITEMS

## TOTAL CASH WORKING CAPITAL

COMPANY NAME  
BALANCE SHEET ANALYSIS - EARNINGS TEST  
FOR THE THIRTEEN MONTHS ENDED --/--

Exhibit No.:  
Witness:\_\_\_\_  
Schedule 18

### Additional Uses of Average Cash Working Capital

Account Number	Account Title	Month Prior to Test Yr.	First Month of Test Yr.	Second Month of Test Yr.	Third Month of Test Yr.	Fourth Month of Test Yr.	Fifth Month of Test Yr.	Sixth Month of Test Yr.	Seventh Month of Test Yr.	Eighth Month of Test Yr.	Ninth Month of Test Yr.	Tenth Month of Test Yr.	Eleventh Month of Test Yr.	Twelfth Month of Test Yr.	Thirteen Month Average
	Individual Uses of Cash Working Capital														
	Individual Uses of Cash Working Capital														
	Individual Uses of Cash Working Capital														

Individual  
Uses of  
Cash  
Working  
Capital

Total Additional Uses  
of Average Cash  
Working Capital

Additional Sources of  
Average Cash Working  
Capital

Account  
Number

Account  
Title

Thirteen  
Month  
Average

Individual  
Sources  
of Cash  
Working  
Capital

Total Additional  
Sources of Average  
Cash Working Capital

Net (Source)/Use of  
Average Cash Working  
Capital

# Regulations

COMPANY NAME  
RATE OF RETURN STATEMENT - PER BOOKS  
FOR THE TEST YEAR ENDED --/--/--

Exhibit No.: \_\_\_\_\_  
Witness: \_\_\_\_\_  
Schedule 19

		(1)	(2)	(3)	(4)	(5)	(6)	(7)
Line No.		Total Company	Non-Jurisdictional	Virginia Cost of Service Amount (1)-(2)	Retail Transmission	Generation	Distribution	Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)
1	OPERATING REVENUES							
2	BASE RATE REVENUES							
3	FUEL REVENUES							
4	LATE PAYMENT FEES							
5	OTHER OPERATING REVENUES							
6	TOTAL OPERATING REVENUES							
7	OPERATING REVENUE DEDUCTIONS							
8	OPERATION & MAINTENANCE EXPENSE							
9	DEPRECIATION & AMORTIZATION							
10	FEDERAL INCOME TAXES							
11	STATE INCOME TAXES							
12	TAXES OTHER THAN INCOME TAXES							
13	GAIN)/LOSS ON DISPOSITION OF PROPERTY							
14	TOTAL OPERATING REVENUE DEDUCTIONS							
15	OPERATING INCOME							
16	PLUS:    AFUDC							
17	LESS:    CHARITABLE DONATIONS							
18	INTEREST EXPENSE ON CUSTOMER DEPOSITS							
19	OTHER INTEREST EXPENSE/(INCOME)							
20	ADJUSTED OPERATING INCOME							
21	PLUS:    OTHER INCOME/(EXPENSE)							
22	LESS:    INTEREST EXPENSE							
23	PREFERRED DIVIDENDS							
24	JDC CAPITAL EXPENSE							

25	INCOME AVAILABLE FOR COMMON EQUITY	
26	ALLOWANCE FOR WORKING CAPITAL	
27	PLUS: NET UTILITY PLANT	
28	LESS: OTHER RATE BASE DEDUCTIONS	
29	TOTAL RATE BASE	
30	TOTAL CAPITAL	
31	COMMON EQUITY CAPITAL	
32	% RATE OF RETURN EARNED ON RATE BASE	
33	% RATE OF RETURN EARNED ON COMMON EQUITY	
34	% EQUITY RETURN AUTHORIZED	

Notes:

For utilities subject to § 56-585.1 of the Code of Virginia, Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

	COMPANY NAME RATE OF RETURN STATEMENT GENERATION AND DISTRIBUTION PER BOOKS FOR THE TEST YEAR ENDED ---/---/---		Exhibit No.: Witness: _____ Schedule 20	
	(1)	(2)	(3)	(4)
Line No.	Virginia Juris. Cost of Service Including Rate Adjustment Clauses	Rate Adjustment Clause Pursuant to § 56-585.1 A 5 b, e or d	Rate Adjustment Clause Pursuant to § 56-585.1 A 6	Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses (1)-(2)-(3)
1	OPERATING REVENUES			
2	BASE RATE REVENUES			
3	FUEL REVENUES			
4	LATE PAYMENT FEES			
5	OTHER OPERATING REVENUES			
6	TOTAL OPERATING REVENUES			
7	OPERATING REVENUE DEDUCTIONS			
8	OPERATION & MAINTENANCE EXPENSE			
9	DEPRECIATION & AMORTIZATION			
10	FEDERAL INCOME TAXES			
11	STATE INCOME TAXES			

# Regulations

12	TAXES OTHER THAN INCOME TAXES
13	(GAIN)/LOSS ON DISPOSITION OF PROPERTY
14	TOTAL OPERATING REVENUE DEDUCTIONS
15	OPERATING INCOME
16	PLUS: AFUDC
17	LESS: CHARITABLE DONATIONS
18	INTEREST EXPENSE ON CUSTOMER DEPOSITS
19	OTHER INTEREST EXPENSE/(INCOME)
20	ADJUSTED OPERATING INCOME
21	PLUS: OTHER INCOME/(EXPENSE)
22	LESS: INTEREST EXPENSE
23	PREFERRED DIVIDENDS
24	JDC CAPITAL EXPENSE
25	INCOME AVAILABLE FOR COMMON EQUITY
26	ALLOWANCE FOR WORKING CAPITAL
27	PLUS: NET UTILITY PLANT
28	LESS: OTHER RATE BASE DEDUCTIONS
29	<b>TOTAL RATE BASE</b>
30	TOTAL CAPITAL
31	COMMON EQUITY CAPITAL
32	% RATE OF RETURN EARNED ON RATE BASE
33	% RATE OF RETURN EARNED ON COMMON EQUITY
34	% EQUITY RETURN AUTHORIZED

**Note:**

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 19 Column (7).

COMPANY NAME RATE OF RETURN STATEMENT REFLECTING RATEMAKING ADJUSTMENTS FOR THE TEST YEAR ENDED --/--/--					Exhibit No.: Witness: ___ Schedule 21
LINE NO.	(1)	(2)	(3)	(4)	(5)
	Virginia Juris. Cost of Service	Ratemaking Adjustments	Virginia Jurisdictional Cost of Service after Adjustments (1)+(2)	Revenue Requirement for a --% ROE	Amounts after Revenue Requirement (3)+(4)
1	OPERATING REVENUES				
2	BASE RATE REVENUES				
3	FUEL REVENUES				

4	LATE PAYMENT FEES
5	OTHER OPERATING REVENUES
6	TOTAL OPERATING REVENUES
7	OPERATING REVENUE DEDUCTIONS
8	OPERATION & MAINTENANCE EXPENSE
9	DEPRECIATION & AMORTIZATION
10	FEDERAL INCOME TAXES
11	STATE INCOME TAXES
12	TAXES OTHER THAN INCOME TAXES
13	(GAIN)/LOSS ON DISPOSITION OF PROPERTY
14	TOTAL OPERATING REVENUE DEDUCTIONS
15	OPERATING INCOME
16	PLUS: AFUDC
17	LESS: CHARITABLE DONATIONS
18	INTEREST EXPENSE ON CUSTOMER DEPOSITS
19	OTHER INTEREST EXPENSE/(INCOME)
20	ADJUSTED OPERATING INCOME
21	PLUS: OTHER INCOME/(EXPENSE)
22	LESS: INTEREST EXPENSE
23	PREFERRED DIVIDENDS
24	JDC CAPITAL EXPENSE
25	INCOME AVAILABLE FOR COMMON EQUITY
26	ALLOWANCE FOR WORKING CAPITAL
27	PLUS: NET UTILITY PLANT
28	LESS: OTHER RATE BASE DEDUCTIONS
29	TOTAL RATE BASE
30	TOTAL CAPITAL
31	COMMON EQUITY CAPITAL
32	% RATE OF RETURN EARNED ON RATE BASE
33	% RATE OF RETURN EARNED ON COMMON EQUITY
34	% EQUITY RETURN AUTHORIZED

Note:

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 20 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 19 Column (3).

# Regulations

LINE NO.	COMPANY NAME RATE BASE STATEMENT - PER BOOKS AS OF --/--/--						Exhibit No.: Witness:___ Schedule 22
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Total Company	Non-Jurisdictional	Virginia Cost of Service Amount (1)-(2)	Retail Transmission Per Books	Generation Per Books	Distribution Per Books	Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)
1	ALLOWANCE FOR WORKING CAPITAL						
2	MATERIAL AND SUPPLIES						
3	CASH WORKING CAPITAL (LEAD LAG STUDY)						
4	DEFERRED FUEL/DEFERRED GAS NET OF FIT						
5	OTHER WORKING CAPITAL						
6	TOTAL ALLOWANCE FOR WORKING CAPITAL						
7	NET UTILITY PLANT						
8	UTILITY PLANT IN SERVICE						
9	ACQUISITION ADJUSTMENT						
10	CONSTRUCTION WORK IN PROGRESS						
11	PLANT HELD FOR FUTURE USE						
12	LESS:	ACCUMULATED PROVISION FOR DEPRECIATION					
13		AND AMORTIZATION					
14		CUSTOMER ADVANCES FOR CONSTRUCTION					
15	TOTAL NET UTILITY PLANT						
16	RATE BASE DEDUCTIONS						
17	CUSTOMER DEPOSITS						
18	SUPPLIER REFUNDS						
19	ACCUMULATED DEFERRED INCOME TAXES						
20	OTHER COST FREE CAPITAL						
21	TOTAL RATE BASE DEDUCTIONS						
22	TOTAL RATE BASE						

**Notes:**

For utilities subject to § 56-585.1 of the Code of Virginia, Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

20VAC5-201-110. Schedules ~~23~~ 24 through ~~28,~~ and 40 and 44 and exhibits for Chapter 201.

The following schedules and exhibits are to be used in conjunction with this chapter.

		COMPANY NAME			Exhibit No.:
		RATE BASE STATEMENT—GENERATION AND DISTRIBUTION PER BOOKS AS OF <del>—/—/—</del>			Witness: <u>      </u>
		(1)	(2)	(3)	Schedule <u>23</u>
		Virginia Juris. Cost of Service Including Rate Adjustment Clauses	Rate Adjustment Clause Pursuant to § 56-585.1 A 5 b, e or d	Rate Adjustment Clause Pursuant to § 56-585.1 A 6	Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses (1)-(2)-(3)
LINE NO.					
1	ALLOWANCE FOR WORKING CAPITAL				
2	MATERIAL AND SUPPLIES				
3	CASH WORKING CAPITAL (LEAD LAG STUDY)				
4	DEFERRED FUEL/DEFERRED GAS NET OF FIF				
5	OTHER WORKING CAPITAL				
6	TOTAL ALLOWANCE FOR WORKING CAPITAL				
7	NET UTILITY PLANT				
8	UTILITY PLANT IN SERVICE				
9	ACQUISITION ADJUSTMENT				
10	CONSTRUCTION WORK IN PROGRESS				
11	PLANT HELD FOR FUTURE USE				
12	LESS: ACCUMULATED PROVISION FOR DEPRECIATION				
13	AND AMORTIZATION				
14	CUSTOMER ADVANCES FOR CONSTRUCTION				
15	TOTAL NET UTILITY PLANT				
16	RATE BASE DEDUCTIONS				
17	CUSTOMER DEPOSITS				
18	SUPPLIER REFUNDS				
19	ACCUMULATED DEFERRED INCOME TAXES				
20	OTHER COST-FREE CAPITAL				
21	TOTAL RATE BASE DEDUCTIONS				
22	TOTAL RATE BASE				

Note:

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 22 Column (7).

# Regulations

COMPANY NAME  
RATE BASE STATEMENT REFLECTING RATEMAKING ADJUSTMENTS AS OF --/--/--

Exhibit No.:  
Witness:  
Schedule 24

LINE NO.	(1) Per Books Virginia Juris. Cost of Service	(2) Ratemaking Adjustments	(3) Virginia Jurisdictional Cost of Service after Adjustments (1)+(2)
1	ALLOWANCE FOR WORKING CAPITAL		
2	MATERIAL AND SUPPLIES		
3	CASH WORKING CAPITAL (LEAD LAG STUDY)		
4	DEFERRED FUEL/DEFERRED GAS NET OF FIT		
5	OTHER WORKING CAPITAL		
6	TOTAL ALLOWANCE FOR WORKING CAPITAL		
7	NET UTILITY PLANT		
8	UTILITY PLANT IN SERVICE		
9	ACQUISITION ADJUSTMENT		
10	CONSTRUCTION WORK IN PROGRESS		
11	PLANT HELD FOR FUTURE USE		
12	LESS: ACCUMULATED PROVISION FOR DEPRECIATION		
13	AND AMORTIZATION		
14	CUSTOMER ADVANCES FOR CONSTRUCTION		
15	TOTAL NET UTILITY PLANT		
16	RATE BASE DEDUCTIONS		
17	CUSTOMER DEPOSITS		
18	SUPPLIER REFUNDS		
19	ACCUMULATED DEFERRED INCOME TAXES		
20	OTHER COST FREE CAPITAL		
21	TOTAL RATE BASE DEDUCTIONS		
22	TOTAL RATE BASE		

Notes:

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 23 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 22 Column (3).

COMPANY NAME  
 DETAIL OF RATEMAKING ADJUSTMENTS  
 REFLECTED IN COL. (-) OF SCHEDULES -- AND --

Exhibit No.: \_\_\_  
 Witness: \_\_\_  
 Schedule 25

ADJ. NO.	ADJUSTMENT	AMOUNT
	INCOME ADJUSTMENTS	
	OPERATING REVENUE ADJUSTMENTS	
	OPERATION AND MAINTENANCE EXPENSE ADJUSTMENTS	
	DEPRECIATION EXPENSE ADJUSTMENTS	
	INCOME TAX ADJUSTMENTS	
	TAXES OTHER THAN INCOME ADJUSTMENTS	
	GAIN ON PROPERTY DISPOSITION ADJUSTMENTS	
	CHARITABLE DONATION ADJUSTMENTS	
	OTHER INTEREST EXPENSE/(INCOME) ADJUSTMENTS	
	INTEREST EXPENSE ADJUSTMENTS	
	PREFERRED DIVIDENDS ADJUSTMENTS	
	JDC CAPITAL EXPENSE ADJUSTMENTS	
	ALLOWANCE FOR WORKING CAPITAL ADJUSTMENTS	
	ELECTRIC PLANT IN SERVICE ADJUSTMENTS	
	PLANT HELD FOR FUTURE USE ADJUSTMENTS	
	CONSTRUCTION WORK IN PROGRESS ADJUSTMENTS	
	ACCUMULATED DEPRECIATION AND AMORTIZATION ADJUSTMENTS	
	OTHER RATE BASE DEDUCTIONS ADJUSTMENTS	
	COMMON EQUITY CAPITAL	

COMPANY NAME  
 REVENUE REQUIREMENT RECONCILIATION

Schedule 26

Revenue Requirement

- Per Books Revenue Deficiency
- Capital Structure Changes
- Rate Base Update
- Other Rate Base Adjustments
- Payroll, Benefits and Payroll Taxes
- Other Business and Affiliate Charges
- Storm Damage
- Decommissioning
- Other Revenue Adjustments
- Other Miscellaneous Adjustments
- Company Proposed Revenue Requirement

Note: The topics or subjects listed above are included for illustrative purposes. Applicant's schedule should include company specific topics/subjects.

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# Regulations

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FOR ILLUSTRATIVE PURPOSES ONLY

COMPANY NAME  
REVENUE REQUIREMENT RECONCILIATION  
Supporting Schedule

Supporting Schedule 26

(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Net of Tax Overall Cost of Capital	Required AOI (1)*(2)	1-Fit Rate	Subtotal (3)*(4)	Gross-up Factor	Revenue Requirement (5)/(6)
Amounts						

**Per Books Revenue Deficiency**

Capital Structure Items:  
ROE from 11.5% to 10.5% (midpoint of  
range)  
Capital Structure Changes

**Total Capital Structure Charges**

**Rate Base Update:**

Rate Base Update  
Customer Growth  
Late Payment Revenues  
Depreciation Expense  
Property Tax Expense  
Liberalized Depreciation  
Liberalized Depreciation - New Rates  
Clover Allocation Factor  
Accumulated Depreciation - Current  
Rates

**Total Rate Base Update**

**Other Rate Base Adjustments:**

Deferred Fuel at 100%  
Contra-AFC Connection  
Cash Working Capital on Sch. D and E

**Total other Rate Base Adjustments**

**Payroll, Benefits and Payroll Taxes:**

Employee Payroll  
Fringe Benefits  
Incentive Pay  
OPEB Expense  
Payroll Taxes

**Total Payroll, Benefits and Payroll  
Taxes**

**Storm Damage:**

Storm Damage Expense & Related OT  
Storm Damage Payroll Taxes

**Total Storm Damage**

**Other Revenue Adjustments:**

Transmission Service Revenues  
Wholesale Contract Renegotiations

**Total Other Revenue Adjustments**

**Other Miscellaneous Adjustments**

FIT on per books JDC  
 FIT on other Interest and Preferred  
 Dividends  
 Computer Leases  
 Obsolete Inventory Amortization  
 Nonoperating Expenses  
 Fuel Handling Expense  
 West Virginia State Income Taxes  
 Interest on Customer Deposits  
 Advertising Expense  
 Miscellaneous  
 Charitable Donations

**Total Other Miscellaneous Adjustments**

**Company Proposed Revenue Requirement**

COMPANY NAME  
 LEAD/LAG CASH WORKING CAPITAL CALCULATION - ADJUSTED  
 FOR THE YEAR ENDED --/--/--  
 SUPPORTING COLUMN -- OF SCHEDULE --

Exhibit No.: \_\_\_\_\_  
 Witness: \_\_\_\_\_  
 Schedule 27

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Virginia Juris. Per Books Amounts	Rulemaking Adjustments	Amounts After Adj.	Average Daily Amount	Expense (Lead)/Lag Days	Revenue Lag	Net (Lead)/Lag Days	Working Capital (Provided)/ Required

**OPERATING EXPENSES**

O&M Expenses:

- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Deferred Fuel
- Payroll Expense
- Benefits and Pension Expense
- OPEB Expense
- Regulatory Asset Amortization Expense
- Uncollectible Expense
- Stores Issues
- Stored Undistributed
- Accrued Vacation Expense
- Prepaid Insurance Amortization Expense
- Worker's Compensation Expense
- Directors' Deferred Compensation Exp.
- Storm Damage Expense
- Transition Cost Expense

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# Regulations

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Restructuring  
Expense  
Contingent Liabilities  
Other O&M  
Expenses

Depreciation Expense:

Depreciation  
Expense  
Amortization  
Expense  
Amortization  
Expense  
Amortization of  
Regulatory Assets

Federal Income Taxes:

Current  
Deferred  
DFIT on items  
excluded from Rate  
Base  
Deferred ITC

State Income Tax Expense

Taxes Other Than Income:

Property Tax  
Expense  
Valuation Tax  
Expense  
Business and  
Occupation Tax  
Expense  
Payroll Tax Expense  
Other Taxes

AFUDC

Gain/Loss of Disposition of  
Property

Charitable Donations

Interest on Customer  
Deposits

Other Expense/  
Income (A-t-1)

Other Income/Expense  
(B-t-1)

Interest Expense

Preferred Dividends

JDC Expense

Income Available for  
Common Equity

**Totals**

**Plus: Customer Utility  
Taxes**

**BALANCE SHEET  
ITEMS**

**TOTAL CASH  
WORKING CAPITAL**

COMPANY NAME  
BALANCE SHEET ANALYSIS – ADJUSTED  
AS OF --/--

Exhibit No.:  
Witness: \_\_\_  
Schedule 28

		First Month	Second Month	Third Month	Fourth Month	Fifth Month	Sixth Month	Seventh Month	Eighth Month	Ninth Month	Tenth Month	Eleventh Month	Twelfth Month	Thirteen Month Average
Additional Uses of Cash Working Capital														
Account Number	Account Title													
	Individual Uses of Cash Working Capital													
	Individual Uses of Cash Working Capital													
	Individual Uses of Cash Working Capital													
	Individual Uses of Cash Working Capital													
Total Additional Uses of Average Cash Working Capital														

Additional Sources of Average Cash Working Capital														
Account Number	Account Title													Thirteen Month Average
	Individual Sources of Cash Working Capital													
	Individual Sources of Cash Working Capital													
	Individual Sources of Cash Working Capital													

# Regulations

Individual  
Sources of  
Cash  
Working  
Capital

Total Additional  
Sources of Cash  
Working Capital

Net (Source)/Use of  
Cash Working Capital

COMPANY NAME  
JURISDICTIONAL COST OF SERVICE STUDY  
(METHODOLOGY) COST ALLOCATION STUDY  
CASE NO. PUE-----

Exhibit No.:  
Witness:\_\_\_\_  
Schedule 40 A and B

Line No.	Description	(1)	(2)	(3)
		Total System	Virginia Non-Juris.	Virginia Per Books Amount (1)-(2)
10	Operating Revenues			
20				
30	Operating and Maintenance Expense			
40	Depreciation Expense			
50	Amortization			
60	Federal Income Taxes			
70	State Income Taxes			
80	Taxes Other than Income			
90				
100	Total Operating and Maintenance Expense			
110				
120	Net Operating Income			
130				
140	Adjustments to Operating Income			
150				
160	Add: AFUDC			
170	Less: Charitable Donations			
180	Interest Exp. - Customer Dep.			
190				
200	Adjusted Net Operating Income			
210				
220	Rate Base			
230				
240	ROR Earned on Rate Base			

# Regulations

		COMPANY NAME CLASS COST OF SERVICE STUDY (METHODOLOGY) COST ALLOCATION STUDY CASE NO. PUE-----					Exhibit No.: Witness: Schedule 40C	
Line No.	Description	(1) Virginia Juris.	(2) Class	(3) Class	(4) Class	(5) Class	(6) Class	(7) Allocation Basis
10	Operating Revenues							
20								
30	Operating Expense							
40	Depreciation Expense							
50	Amortization							
60	Federal Income Taxes							
70	State Income Taxes							
80	Taxes Other than Income							
90								
100	Total Operating and Maintenance Expense							
110								
120	Net Operating Income							
130								
140	Adjustments to Operating Income							
150								
160	Add: AFUDC							
170	Less: Charitable Donations							
180	Interest Exp. - Customer Dep.							
190								
200	Adjusted Net Operating Income							
210								
220	Rate Base							
230								
240	ROR Earned on Rate Base							

		COMPANY NAME RATE ADJUSTMENT CLAUSES PURSUANT TO § 56-585.1 A4, A5 AND/OR A6 OF THE CODE OF VIRGINIA FOR THE YEAR ENDED ---			Exhibit No.: Witness: Schedule 44
LINE NO.		MONTH	A/C NO. DEBITS	A/C NO. CREDITS	A/C NO. BALANCE
1	BEGINNING BALANCE				
2					
3					
4					
5					
6					
7					
8					
9					

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# Regulations

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40  
41  
42  
43  
44 ENDING BALANCE

CHAPTER 204  
RULES GOVERNING UTILITY RATE APPLICATIONS  
AND ANNUAL INFORMATIONAL FILINGS OF  
INVESTOR-OWNED ELECTRIC UTILITIES

**20VAC5-204-5. Purpose and applicability.**

This chapter sets forth minimum filing requirements for Virginia's investor-owned electric utilities related to annual informational filings, rate case filings, and prudency determinations under Chapter 10 (§ 56-232 et seq.) and Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia. Forms are prescribed or adopted for purposes of implementing Chapter 10 (§ 56-576 et seq.) and Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia. When so prescribed or adopted, use of the forms is mandatory. This chapter should not be construed as limiting the ability of the commission or its staff to evaluate information in addition to or beyond that identified in this chapter.

**20VAC5-204-10. General filing instructions.**

A. An applicant shall provide a notice of intent to file an application pursuant to 20VAC5-204-20, 20VAC5-204-40, and 20VAC5-204-60 to the commission 60 days prior to the application filing date. A notice of intent to file an application shall be provided for each 20VAC5-204-40 and 20VAC5-204-60 application, and such notice shall identify the specific section and subsection of the Code of Virginia pursuant to which the application will be filed. If the filing is for the continuation of a previously-approved rate adjustment clause, the notice shall identify the specific rate adjustment clause. If the application is for approval of a new rate adjustment clause or for a prudency determination, the notice shall include a narrative description of the associated project or program.

B. Applications pursuant to 20VAC5-204-20 through 20VAC5-204-80 shall include:

1. The name and post office address of the applicant and the name and post office address of the applicant's counsel.
2. A full clear statement of the facts that the applicant is prepared to prove by competent evidence.
3. A statement of details of the objectives sought and the legal basis therefore.
4. All direct testimony by which the applicant expects to support the objectives sought. Each testimony shall include a summary not to exceed one page.

5. Information or documentation conforming to the following general instructions:

a. Attach a table of contents of the company's application, including exhibits.

b. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right-hand corner as follows:

Exhibit No. (Leave Blank)

Witness: (Initials)

Statement or

Schedule Number

c. The first page of all exhibits shall contain a caption that describes the subject matter of the exhibit.

d. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount that differs, together with an explanation describing the nature of the difference.

e. The required accounting and statistical data shall include all work papers and other information necessary to ensure that the items, statements, and schedules are not misleading.

C. This chapter does not limit the commission staff or parties from raising issues for commission consideration that have not been addressed in the applicant's filing before the commission. Except for good cause shown, issues specifically decided by commission order entered in the applicant's most recent rate case may not be raised by staff or interested parties in earnings tests made pursuant to 20VAC5-204-20, 20VAC5-204-30, or 20VAC5-204-50.

D. An application filed pursuant to 20VAC5-204-20, 20VAC5-204-30, 20VAC5-204-40, 20VAC5-204-50, 20VAC5-204-60, 20VAC5-204-70, or 20VAC5-204-80 shall not be deemed filed pursuant to Chapter 10 (§ 56-232 et seq.) or Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia unless it is in full compliance with this chapter.

E. The commission may waive any part or all of this chapter for good cause shown.

F. Where a filing contains information that the applicant claims to be confidential, the filing may be made under seal provided it is simultaneously accompanied by both a motion for protective order or other confidential treatment and an

original and one copy of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall, however, be immediately available to the commission staff for internal use at the commission.

G. Filings containing confidential (or redacted) information shall so state on the cover of the filing, and the precise portions of the filing containing such confidential (or redacted) information, including supporting material, shall be clearly marked within the filing.

H. Applicants shall provide a searchable PDF version of the application and direct testimony electronically to the Divisions of Utility Accounting and Finance and Public Utility Regulation and the Division of Consumer Counsel of the Office of the Attorney General of Virginia.

Additionally, all schedules containing calculations derived from formulas shall be provided electronically to the Divisions of Utility Accounting and Finance and Public Utility Regulation and the Division of Consumer Counsel of the Office of the Attorney General of Virginia in an electronic spreadsheet including all underlying formulas and assumptions. Such electronic spreadsheet shall be commercially available and have common use in the utility industry.

All schedules that do not contain calculations derived from formulas shall be provided electronically to the Divisions of Utility Accounting and Finance and Public Utility Regulation and the Division of Consumer Counsel of the Office of the Attorney General of Virginia in a searchable PDF version within five business days of the application filing date. Additional versions of such schedules shall be made available to parties upon request.

I. All applications, including direct testimony and Schedules 1 through 28, 30 through 39, and 41 through 49, as applicable, shall be filed in an original and 12 copies with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. One copy of Schedules 29 and 40 shall be filed with the Clerk of the Commission. Applicants may omit filing Schedule 29 with the Clerk of the Commission in Annual Informational Filings. Additional copies of such schedules shall be made available to parties upon request.

One copy of Schedules 29 and 40 shall be submitted to the Division of Utility Accounting and Finance. Four copies of Schedule 40 shall be submitted to the Division of Public Utility Regulation.

J. For any application made pursuant to 20VAC5-204-20 and 20VAC5-204-40 through 20VAC5-204-80, the applicant shall serve a copy of the information required in subsection A of this section at the same time that it is filed with the commission upon: (i) the chairman of the board of supervisors of each county (or equivalent officials in the

counties having alternate forms of government) in this Commonwealth affected by the proposed increase; (ii) the mayor or manager of every city and town (or equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed increase; and (iii) the Division of Consumer Counsel of the Office of the Attorney General of Virginia.

For applications pursuant to 20VAC5-204-20 and 20VAC5-204-40 through 20VAC5-204-80, the applicant shall also serve each such official with the following within five business days of the issuance of the commission's procedural order regarding the application: (i) the information required in subdivisions B 1, B 2, and B 3 of this section; (ii) a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location; and (iii) the commission's procedural order regarding the application. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia at the same time it is filed with the commission. All such service specified by this section shall be made either by personal delivery or first class mail to the customary place of business or to the residence of the person served.

K. Nothing in this chapter shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.

**20VAC5-204-20. Base rate increase applications pursuant to Chapter 10 of Title 56 of the Code of Virginia.**

A. An application for a base rate increase pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia shall conform to the following requirements:

1. Exhibits consisting of Schedules 1 through 43 and the utility's direct testimony shall be submitted. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in 20VAC5-204-90.
2. An applicant subject to § 56-585.1 of the Code of Virginia shall file Schedules 44, 45, 47, and 48A in addition to the schedules required in 20VAC5-204-20 A 1 in accordance with the instructions accompanying such schedules in 20VAC5-204-90.
3. An exhibit consisting of additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule 49 (this exhibit may include numerous subschedules labeled 49A et seq.).

B. The selection of a historic test period is up to the applicant. However, the use of overlapping test periods will not be allowed.

C. Applicants meeting each of the three following criteria may omit Schedules 9 through 18 in rate applications: (i) the

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# Regulations

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applicant is not subject to § 56-585.1 of the Code of Virginia: (ii) the applicant has no Virginia jurisdictional regulatory assets on the applicant's books that are subject to an earnings test; and (iii) the applicant is not seeking to establish a regulatory asset.

## **20VAC5-204-30. Annual informational filings.**

Each utility not subject to § 56-585.1 of the Code of Virginia, and which is not requesting a base rate increase, shall make an annual informational filing consisting of Schedules 1 through 7, 9, 11, 12, 14 through 19, 21, 22, 24, 25, 27, 28, 29, 36, and 40 a and b as identified in 20VAC5-204-90. The test period shall be the current 12 months ending in the same month used in the utility's most recent rate application. This information shall be filed with the commission within 120 days after the end of the test period. Accounting adjustments reflected in Column (2) of Schedule 21 shall incorporate the ratemaking treatment approved by the commission in the utility's last rate case and shall be calculated in accordance with the rules of Schedule 25. Requirements found in 20VAC5-204-10 B 2, B3, and B 4 may be omitted in Annual Informational Filings.

Applicants meeting each of the following criteria may omit Schedules 9 through 18 in Annual Informational Filings: (i) the applicant has no Virginia jurisdictional regulatory assets on the applicant's books subject to an earnings test; and (ii) the applicant is not seeking to establish a regulatory asset.

## **20VAC5-204-40. Prudency determination filings.**

An application pursuant to Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia for a prudency determination that does not request approval of an associated rate adjustment clause shall include Schedule 46 as identified and described in 20VAC5-204-90, which shall be submitted with the utility's direct testimony.

## **20VAC5-204-50. Base rate review applications pursuant to § 56-585.1 of the Code of Virginia.**

A. A base rate review application filed pursuant to § 56-585.1 of the Code of Virginia shall include the following:

1. Exhibits consisting of Schedules 3; 6; 7; 9 through 18; 29 a, b, c, and f; 30, 31, 32, 34, 35, 36, 40a, 44, 48a, and 48b as identified in 20VAC5-204-90 shall be submitted with the utility's direct testimony for each of the successive 12-month test periods. Schedule 35 for the final 12-month test period shall be filed no later than April 30 of each application filing year.

2. Exhibits consisting of Schedules 1, 2, 4, 5, 8, 19 through 28, 29 d, 29 e, 33, 37, 38, 39, 40b, 40c, 41, 42, 43, 45, 47, and 48c as identified in 20VAC5-204-90 shall be submitted with the utility's direct testimony for the final 12-month test period.

3. An exhibit consisting of additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule 49 (this exhibit may include subschedules as needed labeled 49A et seq.).

4. A reconciliation of the total company amounts in Schedules 19 and 22 to the statement of income and comparative balance sheet contained in Federal Energy Regulatory Commission Form No. 1 shall be filed with the commission no later than April 30 of each application filing year.

B. The assumed rate year for purposes of determining ratemaking adjustments in Schedules 21 and 24, as identified in 20VAC5-204-90, shall begin on January 1 following the application filing date.

## **20VAC5-204-60. Rate adjustment clause filings.**

An application for a rate adjustment clause filed pursuant to Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia shall include Schedule 46 as identified and described in 20VAC5-204-90, which shall be submitted with the utility's direct testimony. Additionally, applications requiring an overall cost of capital shall include Schedules 3, 4, 5, and 8.

## **20VAC5-204-70. Temporary increases of rates.**

A. Applicants that file a request for a temporary increase in rates pursuant to § 56-245 of the Code of Virginia shall include Schedules 1 through 7, 9, 11, 12, 14, 16, 17, and 18 as identified and described in 20VAC5-204-90.

B. Applicants subject to § 56-585.1 of the Code of Virginia that file a request for a temporary increase in rates pursuant to § 56-245 shall file Schedules 10, 13, 44, 45, 47, and 48A as identified and described in 20VAC5-204-90 in addition to the schedules required in subsection A of this section.

## **20VAC5-204-80. Fuel factor filings.**

A. In the event that an electric utility files an application to change the fuel factor, fuel factor projections shall be filed at least six weeks prior to the proposed effective date. The filing shall include projections required by the commission's fuel monitoring system as well as the testimony and exhibits supporting the fuel factor projections. At a minimum, the filing shall include the following for each month of the forecast period in which the proposed fuel factor is expected to be in effect: (i) Projections of system sales and energy supply requirements (MWh); (ii) Projections of generation and purchased power levels (MWh) by source; (iii) Projections of fuel requirements by generating unit (MMBtu); (iv) Projections of fuel and purchased power costs by source; (v) Projections of off-system sales volumes and margins; (vi) Projections of generating unit outage rates and heat rates; and (vii) Total fuel factor costs by source by month.

The filing shall further include the following information for each month for the most recent historical 12-month period:

1. Actual system sales and energy supply (MWh).
2. Actual generation and purchased power levels (MWh) by source.
3. Actual fuel burns by generating units (MMBtu).
4. Actual fuel and purchased power costs by source.
5. Actual off-system sales volumes and margins along with support for calculation of margins.
6. Actual generating unit planned and forced outage rates and heat rates along with brief descriptions and durations of outages.
7. Discussion of any abnormal operating events and actions taken to minimize fuel and purchased energy costs.

B. Electric utilities not seeking a change in the fuel factor shall file fuel factor projections at least six weeks prior to the expiration of the last projection or as required by the commission. The filing shall include the same information required in subsection A of this section.

**20VAC5-204-90. Instructions for Schedules and exhibits for this chapter.**

The following instructions for schedules and exhibits are to be used in conjunction with this chapter:

**Schedule 1 - Historical Profitability and Market Data**

Instructions: Using the format of Form Schedule 1 and the following definitions, provide the data for the test period and four prior fiscal years. The information shall be compatible with the latest SEC Form 10-K consolidated financial statements (including any restatements). Information in Sections A and B of Schedule 1 shall be compiled for the corporate entity that raises equity capital in the marketplace. Information in Section C of Schedule 1 shall be compiled for the subsidiary company that provides regulated utility service in Virginia.

Definitions for Schedule 1

$$\text{Return on Year End Equity} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Year End Common Equity}}$$

$$\text{Return on Average Equity} = \frac{\text{Earnings Available for Common Shareholders}}{\text{The Average of Year End Equity for the Current \& Previous Year}}$$

Earnings Available for Common Shareholders

$$\text{Earnings Per Share} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$$

$$\text{Dividends Per Share} = \frac{\text{Common Dividends Paid per Share During the Year}}$$

$$\text{Payout Ratio} = \text{DPS/EPS}$$

$$\text{Dividend Yield} = \text{DPS/Year End Price}$$

$$\text{Price Earnings Ratio} = \text{Average Market Price/EPS}$$

**Schedule 2 - Interest and Cash Flow Coverage Data**

Instructions: This schedule shall be prepared using the following definitions and instructions and presented in the format of Form Schedule 2. The information shall be provided for the test period and the four prior fiscal years based on information for the applicant and for the consolidated company if the applicant is a subsidiary.

- Interest (Lines 3, 4, and 5) shall include amortization of expenses, hedging gains and losses, discounts, and premiums on debt without deducting an allowance for borrowed funds used during construction.

- Income taxes (Line 2) shall include federal and state income taxes.

- Allowance for Funds Used During Construction ("AFUDC") (Line 8), where applicable, is total AFUDC -- for borrowed and other funds.

- Preferred dividends (Line 13) for a subsidiary shall be stated per books.

- Construction expenditures (Line 15) are net of AFUDC.

- Common dividends (Line 16) for a subsidiary shall be stated per books.

**Schedule 3 - Capital Structure and Cost of Capital Statement – Per Books and Average**

Instructions: This schedule shall show the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, and the component cost and weighted cost, using the format in Form Schedule 3. The information shall be provided for the test period, the four prior fiscal years, and on a 13-month average or five-quarter average basis for the test period. The data shall be provided for the entity whose capital structure was approved for use in the applicant's last rate case.

In Part A, the information shall be compatible with the latest SEC Form 10-K consolidated financial statements (including any restatements). In Parts B, C, and D, the methodology shall be consistent with that approved in the applicant's last rate case. Reconcile differences between Parts A and B for both end-of-test-period and average capital structures.

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# Regulations

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The amounts for all short-term debt, revolving credit agreements, and similar short-term financing arrangements in Part B shall be based on a daily average over the test year, or alternatively, on a 13-month average over the test year. Except for the Part B amount for short-term debt and average amounts in Column (6), all other accounts are end-of-year and end-of-test period.

The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates. The Investment Tax Credits cost is equal to the weighted cost of permanent capital (long-term debt, preferred stock, and common equity).

Adjustments made to per books amounts shall be fully documented and explained.

For investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia, Parts A, B, C, and D shall be based on the utility's actual, end-of-period capital structure.

In an application for a rate adjustment clause pursuant to § 56-585.1 A 5 or A 6 of the Code of Virginia, Schedule 3 information shall be provided to support each actual, end-of-period capital structure for each year necessary to calculate the revenue requirement. Information for prior time periods not necessary to calculate the revenue requirement need not be provided.

## **Schedule 4 - Schedules of Long-Term Debt, Preferred Stock, Investment Tax Credits, and Any Other Component of Ratemaking Capital**

Instructions: For each applicable capital component, provide a schedule that shows, for each issue, the amount outstanding, its percentage of the total capital component, and the effective cost rate. This data shall support the amount and cost rate of the respective capital components contained in Schedule 3, consistent with the methodology approved in applicant's last rate case. In addition, a detailed breakdown of all investment tax credits should be provided that reconciles to the per books balance of investment tax credits. These schedules should reflect disclosure of any associated hedging/derivative instruments, their respective terms and conditions (instrument type, notional amount and associated series of debt or preferred stock hedged, period in effect, etc.), and the impact of such instruments on the cost of debt or preferred stock.

## **Schedule 5 - Schedule of Short-Term Debt, Revolving Credit Agreements, and similar Short-Term Financing Arrangements**

Instructions: Utilities that are not subject to § 56-585.1 of the Code of Virginia shall provide data and explain the methodology, which should be consistent with the methodology approved in the applicant's last rate case, used to calculate the cost and balance contained in Schedule 3 for

short-term debt, revolving credit agreements, and similar arrangements.

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall file data consistent with the utility's end of test period capital structure and cost of short-term debt.

This schedule should also provide detailed disclosure of any hedging/derivative instruments related to short-term debt, their respective terms and conditions (instrument type, notional amount and associated series of debt hedged, period in effect, etc.), and the impact of such instruments on the cost of short-term debt.

## **Schedule 6 - Public Financial Reports**

Instructions: Provide copies, or a link to where such copies can be found on the Internet, of the most recent Stockholder's Annual Report, Securities and Exchange Commission Form 10-K, and Form 10-Q for the applicant and the consolidated parent company if the applicant is a subsidiary. If published, provide a copy, or a link to where such copy can be found on the Internet, of the most recent statistical or financial supplement for the consolidated parent company.

## **Schedule 7 - Comparative Financial Statements**

Instructions: If not provided in the public financial reports for Schedule 6, provide comparative balance sheets, income statements, and cash flow statements for the test year and the 12-month period preceding the test year for the applicant and its consolidated parent company if applicant is a subsidiary. In lieu of providing a copy, the applicant may provide a link to where such information can be found on the Internet.

## **Schedule 8 - Proposed Cost of Capital Statement**

Instructions: Provide the applicant's proposed capital structure/cost of capital schedule. In conjunction, provide schedules that support the amount and cost rate of each component of the proposed capital structure, and explain all assumptions used.

## **Schedule 9 - Rate of Return Statement – Earnings Test – Per Books**

Instructions: Use the format of Form Schedule 9.

For cases filed pursuant to § 56-585.1 A of the Code of Virginia, Schedule 9 shall reflect average rate base. Interest expense, preferred dividends, and common equity capital shall be calculated using the actual end-of-test period capital structure included in Schedule 3 B and average rate base. In all other cases, Schedule 9 shall reflect average rate base, capital, and common equity capital. Interest expense, preferred dividends, and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1), (2), and (3) on Schedule 9.

Revenues presented in Schedule 10 shall include separate line items for each type of revenue (e.g., base rates and § 56-585.1 A 4, A 5, and A 6 rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

**Schedule 10 - Rate of Return Statement - Earnings Test - Generation and Distribution Per Books**

Instructions: Use the format of Form Schedule 10.

Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 10.

Schedule 10 shall reflect combined generation and distribution operations. Additionally, utilities shall file Schedule 10A, reflecting generation only operations, and Schedule 10B, reflecting distribution only operations, using the same format as Schedule 10.

For cases filed pursuant to § 56-585.1 A of the Code of Virginia, Schedule 10 shall reflect the average rate base. Interest expense, preferred dividends, and common equity capital shall be calculated by using the actual end-of-test period capital structure included in Schedule 3 B and average rate base. In all other proceedings, Schedule 10 shall reflect average rate base, capital, and common equity capital. Interest expense, preferred dividends, and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.

Revenues presented in Schedule 10 shall include separate line items for each type of revenue (e.g., base rates and § 56-585.1 A 4, A 5, and A 6 rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

Schedule 10 Columns (2) and (3) shall reflect revenues, expenses, and rate base for commission-approved rate adjustment clauses pursuant to § 56-585.1 A 5 or A 6 of the Code of Virginia, respectively. Schedule 10 Column (4) shall include revenues, expenses, and rate base intended to be recovered through future deferral mechanisms.

**Schedule 11 - Rate of Return Statement - Earnings Test - Adjusted to a Regulatory Accounting Basis**

Instructions: Use the format of Form Schedule 11.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 11 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 11A, reflecting generation only operations, and Schedule 11B, reflecting distribution only operations, using the same format as Schedule 11.

Revenues presented in Schedule 11 shall include separate line items for each type of revenue (e.g., base rates and § 56-585.1 A 4, A 5, and A 6 rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

Schedule 11 adjustments in Column (2) shall reflect any financial differences between per books and regulatory

accounting as prescribed by the commission. Each Column (2) adjustment shall be separately identified and reflected in Schedule 16.

A per books regulatory accounting adjustment to reflect Investment Tax Credit (ITC) Capital Expense shall be reflected in Schedule 11 Column (2), if applicable. Column (3) ITC Capital Expense shall be calculated as follows:

$$\text{ITC Capital Expense} = \text{Rate Base (line 25)} * \text{weighted cost of ITC Capital in Schedule 3}$$

The associated income tax savings shall be reflected in lines 5 and 6, Column (2) as follows:

$$\text{Associated income tax savings} = \text{total average rate base (line 25)} * \text{weight of ITC capital (Sch. 3)} * \text{weighted cost of debt component of the ITC cost component (Sch. 3)} * (\text{Federal and State Income Tax rate} * -1)$$

Schedule 11 Line 15 other income/(expense) shown in Column (3) shall be the current amount of other income/(expense) categorized as jurisdictional in the applicant's last rate case.

**Schedule 12 - Rate Base Statement – Earnings Test – Per Books**

Instructions: Use the format of Form Schedule 12.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1), (2), and (3) on Schedule 12.

Applicants with jurisdictional per books operating revenues of more than \$150 million shall calculate cash working capital allowance using a lead/lag study. Applicants with jurisdictional per books operating revenues between \$20 and \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study.

**Schedule 13 - Rate Base Statement – Earnings Test – Generation and Distribution Per Books**

Instructions: Use the format of Form Schedule 13.

Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 13.

For utilities subject to § 56-585.1, Schedule 13 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 13A, reflecting generation only operations, and Schedule 13B, reflecting distribution only operations, using the same format as Schedule 13.

Schedule 13 Columns (2) and (3) shall reflect rate base information for commission-approved rate adjustment clauses pursuant to § 56-585.1 A 5 or A 6 of the Code of Virginia. Column (4) shall reflect rate base information for amounts intended to be recovered through future deferral mechanisms.

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Cash working capital allowance shall be calculated using a lead/lag study.

## **Schedule 14 - Rate Base Statement – Earnings Test – Adjusted to Regulatory Accounting Basis**

Instructions: Use the format of Form Schedule 14.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 14 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 14A, reflecting generation only operations, and Schedule 14B, reflecting distribution only operations, using the same format as Schedule 14.

Cash working capital allowance shall be calculated using a lead/lag study. Schedule 14 Column (2) shall reflect adjustments necessary to identify any financial differences between per books and regulatory accounting as prescribed by the commission. Each Column (2) adjustment shall be separately identified and reflected in Schedule 16.

## **Schedule 15 - Schedule of Regulatory Assets**

Instructions: Use the format of Form Schedule 15.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 15 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

All regulatory assets shall be individually listed with associated deferred income tax. Indicate whether the regulatory asset (i) is included in financial reporting or is currently recognized for ratemaking purposes only; and (ii) is subject to an earnings test.

## **Schedule 16 - Detail of Regulatory Accounting Adjustments**

Instructions: If applicable per Schedules 9 and 12 instructions.

Use the format of Form Schedule 16.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 16 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

Each regulatory accounting adjustment shall be numbered sequentially beginning with ET-1 and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).

Each regulatory accounting adjustment shall be fully explained in the description column of this schedule. Regulatory accounting adjustments shall adjust from a financial accounting basis to a regulatory accounting basis. Adjustments to reflect going-forward operations shall not be included on this schedule.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.

## **Schedule 17 - Lead/Lag Cash Working Capital Calculation – Earnings Test**

Instructions: Use the format of Form Schedule 17.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 17 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 17A, reflecting generation only operations, and Schedule 17B, reflecting distribution only operations, using the same format as Schedule 17.

Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 18 shall be included in the Total Cash Working Capital amount in this schedule.

The Total Cash Working Capital amount determined in this schedule shall be included in Schedules 12, 13, and 14.

Utilities should perform a complete lead/lag analysis every five years. Major items, such as the revenue lag and balance sheet accounts, should be reviewed every year.

## **Schedule 18 - Balance Sheet Analysis – Earnings Test**

Instructions: Use the format of Form Schedule 18.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 18 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

All uses and sources of cash working capital shall be detailed in this schedule. The associated accumulated deferred income tax shall also be included as a use or source.

The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 17.

Support for Schedule 18 shall include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in (i) the balance sheet analysis; (ii) the capital structure; (iii) the income statement portion of the lead/lag study; (iv) elsewhere in rate base; or (v) excluded from cost of service. Applicants shall also include a brief description of the costs in each account.

## **Schedule 19 - Rate of Return Statement – Per Books**

Instructions: Use the format of Form Schedule 19.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 19 shall reflect combined generation and distribution operations.

Utilities not subject to § 56-585.1 shall file only Columns (1), (2), and (3) on Schedule 19.

Revenues presented in Schedule 19 shall include separate line items for each type of revenue (e.g., base rates and

§ 56-585.1 A 4, A 5, and A 6 rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

Column (1) interest expense, preferred dividends, and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and end of test year level rate base.

### **Schedule 20 - Rate of Return Statement – Generation and Distribution Per Books**

Instructions: Use the format of Form Schedule 20.

Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 20.

Schedule 20 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 20A, reflecting generation only operations, and Schedule 20B, reflecting distribution only operations, using the same format as Schedule 20.

Revenues presented in Schedule 20 shall include separate line items for each type of revenue (e.g., base rates and § 56-585.1 A 4, A 5, and A 6 rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

Schedule 20 Columns (2) and (3) shall reflect revenues, expenses, and rate base for commission-approved rate adjustment clauses pursuant to § 56-585.1 A 5 or A 6 of the Code of Virginia, respectively. Schedule 20 Column (4) shall reflect revenues, expenses, and rate base intended to be recovered through future deferral mechanisms.

Interest expense, preferred dividends, and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and end of test year level rate base.

### **Schedule 21 - Rate of Return Statement - Reflecting Ratemaking Adjustments**

Instructions: Use the format of Form Schedule 21.

Revenues presented in Schedule 21 shall include separate line items for each type of revenue (e.g., base rates and § 56-585.1 A 4, A 5, and A 6 of the Code of Virginia rate adjustment clauses, fuel factor, late payment fees, and miscellaneous revenue).

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 21 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 21A, reflecting generation only operations, and Schedule 21B, reflecting distribution only operations, using the same format as Schedule 21.

Schedule 21 Column (2) adjustments shall be separately identified and reflected in Schedule 25.

Interest expense, preferred dividends, and common equity capital shall be calculated by using the capital structure

included in Schedule 3 or Schedule 8 and an adjusted level of rate base.

After ratemaking adjustments, ITC capital expense shall be calculated as follows:

Total rate base (Line 29) \* weighted cost of ITC capital in Schedule 3 or 8

Applicants filing pursuant to 20VAC5-204-30 may omit Columns (4) and (5).

### **Schedule 22 - Rate Base Statement – Per Books**

Instructions: Use the format of Form Schedule 22.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1), (2), and (3) on Schedule 22.

Applicants with jurisdictional per books operating revenues more than \$150 million shall calculate cash working capital allowance using a lead/lag study. Applicants with jurisdictional per books operating revenues between \$20 million and \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study.

### **Schedule 23 - Rate Base Statement – Generation and Distribution Per Books**

Instructions: Use the format of Form Schedule 23.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 23 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 23A, reflecting generation only operations, and Schedule 23B, reflecting distribution only operations, using the same format as Schedule 23.

Utilities not subject to § 56-585.1 may omit Schedule 23.

Schedule 23 Columns (2) and (3) shall reflect rate base information for commission-approved rate adjustment clauses pursuant to § 56-585.1 A 5 or A 6 of the Code of Virginia, respectively. Schedule 23 Column (4) shall reflect rate base information for amounts intended to be recovered through future deferral mechanisms.

Cash working capital allowance shall be calculated using a lead/lag study.

### **Schedule 24 - Rate Base Statement - Adjusted - Reflecting Ratemaking Adjustments**

Instructions: Use the format of Form Schedule 24.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 24 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 24A, reflecting generation only operations, and Schedule 24B, reflecting distribution only operations, using the same format as Schedule 24.

Cash working capital allowance shall be calculated using a lead/lag study.

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## **Schedule 25 - Detail of Ratemaking Adjustments**

Instructions: Use the format of Form Schedule 25.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 25 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

Each adjustment shall be numbered sequentially and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).

Ratemaking adjustments shall reflect an annual level of revenues and expenses in accordance with applicable rules and laws governing utility rate changes. Rate base adjustments may reflect no more than a rate year average. Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.

## **Schedule 26 - Revenue Requirement Reconciliation**

Instructions: Use the format of Form Schedule 26 for lead schedule. An example of a supporting schedule is provided.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 26 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 26A, reflecting generation only operations, and Schedule 26B, reflecting distribution only operations, using the same format as Schedule 26.

Provide a revenue reconciliation of each topic or subject that affects the revenue requirement. All components of each topic or subject shall be detailed (i.e., payroll and related = payroll, benefits, payroll taxes, and related tax effect) on a supporting schedule. Cash working capital shall be considered a separate topic or subject rather than as a component of each topic or subject.

## **Schedule 27 - Lead/Lag Cash Working Capital Calculation – Adjusted**

Instructions: Use the format of Form Schedule 27.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 27 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 27A, reflecting generation only operations, and Schedule 27B, reflecting distribution only operations, using the same format as Schedule 27.

Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 28 shall be included in the Total Cash Working Capital amount in this schedule.

The Total Cash Working Capital amount determined in this schedule shall be included in Schedules 22, 23, and 24.

Utilities required to use a lead/lag study should perform a complete lead/lag analysis every five years. Major items such

as the revenue lag and balance sheet accounts should be reviewed every year.

## **Schedule 28 - Balance Sheet Analysis – Adjusted**

Instructions: Use the format of Form Schedule 28.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 28 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

All uses and sources of cash working capital shall be detailed in this schedule. The associated accumulated deferred income tax shall also be included as a use or source.

The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 27.

Support for the above schedule should include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in (i) the balance sheet analysis; (ii) the capital structure; (iii) the income statement portion of the lead/lag study; (iv) elsewhere in rate base; or (v) excluded from cost of service. Include a brief description of the costs included in each account.

## **Schedule 29 - Workpapers for Earnings Test and Ratemaking Adjustments**

Instructions: Include a table of contents listing the work papers included in this schedule.

a. Provide a narrative explaining the purpose and methodology used for each adjustment identified in subsections b and d of these instructions that have not been addressed in the applicant's prefiled testimony. Such explanation shall reference any relevant Financial Accounting Standards Board ("FASB") statement or commission precedent if known or available.

b. Provide a summary calculation of each earnings test adjustment included in Schedule 16. Each summary calculation shall identify the source documents used to prepare such calculation.

c. Provide all relevant documents references and information necessary to support the summary calculation required in subsection b of these instructions for each proposed earnings test adjustment. Amounts identified as per books costs shall include any documentation or references necessary to verify such amount to Schedule 40a. Working papers shall be indexed and tabbed for each adjustment and include the name of the primary employee or employees responsible for the adjustment. All documents and information as referenced above should include general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports. Supporting documentation that is voluminous may be made available at the applicant's office.

d. Provide a summary calculation of each rate year adjustment included in Schedule 25. Each summary calculation shall identify the source documents used to prepare such calculation.

e. Provide all relevant documents and information necessary to support the summary calculation required in subsection d of these instructions for each proposed rate year adjustment. Amounts identified as per books costs shall include any documentation necessary to verify such amount to Schedule 40b. Working papers shall be indexed and tabbed for each adjustment and include the name of the primary employees responsible for the adjustment. All documents and information as referenced in subsections a through f of these instructions should include general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports.

f. Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall separately identify functional information for each earnings test and proposed rate year adjustment required in subsections b and d of these instructions.

### **Schedule 30 - Revenue and Expense Variance Analysis**

Instructions: Applicant shall quantify jurisdictional operating revenues and system operating and maintenance expenses by primary account as specified by the Federal Energy Regulatory Commission Uniform System of Accounts (hereinafter referred to as "USOA account") during the test period and the preceding 12 months. Also, provide jurisdictional sales volumes by customer class for the test period.

Applicants shall file a schedule detailing all revenue and expense accounts by month for the test period. Applicants shall provide a detailed explanation of all jurisdictional revenue and system expense increases or decreases of more than 10% during the test period compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than one-tenth of one percent (.001) of Operating & Maintenance expenses excluding fuel factor costs. Additionally, the applicant shall provide an electronic spreadsheet version of the accounts payable ledger or schedule of all accounts payable, including all underlying formulas and assumptions, electronically to the Division of Utility Accounting and Finance within five business days of the application filing date.

### **Schedule 31 - Advertising Expense**

Instructions: A schedule detailing advertising expense by USOA account and grouped according to the categories identified in § 56-235.2 of the Code of Virginia shall be provided. Advertising costs that are not identifiable to any of those categories shall be included in a separate category titled "other." If applicant seeks rate relief, demonstrate that the

applicant's advertising meets the criteria established in § 56-235.2 of the Code of Virginia.

### **Schedule 32 - Storm Damage**

Instructions: Provide a schedule identifying major storm damage expense by month, Federal Energy Regulatory Commission account, and internal or third-party cost for the test year and the previous three years. Include a detailed description of the damage sustained, the length of outages associated with the storm damage, and work necessary to restore service. Applicant shall indicate whether each major storm is considered a severe weather event pursuant to § 56-585.1 A 8 of the Code of Virginia.

### **Schedule 33 - Generating Unit Performance**

Instructions: This schedule applies to applicants subject to § 56-585.1 of the Code of Virginia. Provide a detailed schedule of each generating unit outage or derate identifying whether the outage or derate was planned, due to maintenance, or forced; start and end dates; cause; and cost. Additionally, provide the heat rate, equivalent availability factor, equivalent forced outage rate, and net capacity factor for each unit.

### **Schedule 34 - Miscellaneous Expenses**

Instructions: Provide a description of amounts paid and USOA accounts charged for each charitable and educational donation, each payment to associated industry organizations, and all other miscellaneous general expenses. Individual items aggregating to less than 5.0% of the total miscellaneous expense may be reflected in an "Other" line item. Advertising expenses included in Schedule 31 should be excluded from this schedule.

### **Schedule 35 - Affiliate Services**

Instructions: For purposes of this schedule affiliate services shall be defined to include those services between regulated and nonregulated divisions of an incumbent utility. If any portion of the required information has been filed with the commission as part of an applicant's Annual Report of Affiliate Transactions, the applicant may reference such report clearly identifying what portions of the required information are included in the Annual Report of Affiliate Transactions.

Provide a narrative description of each affiliated service received or provided during the test period.

Provide a summary of affiliate transactions detailing costs by type of service provided (e.g., accounting, auditing, legal and regulatory, human resources, etc.) for each month of the test period. Show the final USOA account distribution of all costs billed to or by the regulated entity by month for the test period, as it is recorded on the regulated entity's books.

Identify all amounts billed to an affiliate and then billed back to the regulated entity.

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Cost records and market analyses supporting all affiliated charges billed to or by the regulated entity/division shall be maintained and made readily available for commission staff review. This shall include supporting detail of costs (including the return component) incurred by the affiliated interest rendering the service and the allocation methodology. In situations when the pricing is required to be the higher (lower) of cost or market and market is unavailable, note each such transaction and have data supporting such a finding available for commission staff review.

If affiliate charges are booked per a pricing mechanism other than that approved by the commission, the regulated entity shall provide a reconciliation of books to commission-approved pricing, including an explanation of why the commission-approved pricing is not used for booking purposes.

## **Schedule 36 - Income Taxes**

Instructions: Provide a schedule detailing the computation of test period current state and federal income taxes on a total company and Virginia jurisdictional basis. Such schedule should provide a complete reconciliation between book and taxable income showing all individual differences. Additionally, provide a schedule detailing the computation of fully adjusted, current state and federal income taxes applicable to the Virginia jurisdiction.

Provide a schedule detailing the individual items of deferred state and federal income tax expense for the test period on a total company and Virginia jurisdictional basis. Separately quantify excess deferred income taxes amortization on both a total company and Virginia jurisdictional basis. Also, differentiate between protected (subject to Internal Revenue Service normalization rules) and unprotected amortization and state the amortization method and period applicable to each. Additionally, provide a schedule detailing the computation of fully adjusted, deferred state and federal income tax applicable to the Virginia jurisdiction.

Provide a detailed reconciliation between the statutory and effective income tax rates for the test period on both a total company and Virginia jurisdictional basis. Schedule should quantify individual reconciling items by dollar amount and percentage. Individual items should include permanent differences (itemize), flow-through depreciation, excess deferred FIT amortization, and deferred Investment Tax Credit amortization.

Provide a detailed listing of individual accumulated deferred income tax and accumulated deferred Investment Tax Credit amounts as of the end of test period. Separately identify those items affecting the computation of rate base on both a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax and accumulated deferred Investment Tax Credit amounts for the earnings test rate base (if applicable), the end

of test period rate base, and the fully-adjusted rate base on a Virginia jurisdictional basis.

Provide a detailed reconciliation between the federal and state current tax expense on a stand-alone basis and the actual per book federal and state current tax expense for the test period on a total company and Virginia jurisdictional basis.

Provide a schedule depicting by month all federal and state income tax payments made during the test year. For each payment identify the recipient.

Provide a detailed reconciliation between deferred federal and state income expense computed on a stand-alone basis and the actual per book deferred federal and state income tax expense on a total company and Virginia jurisdictional basis.

Provide a detailed reconciliation between individual accumulated deferred federal and state income tax assets and liabilities computed on a stand-alone basis and the actual per book accumulated deferred income tax amounts as of the end of the test period on a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax assets and liabilities computed on a stand-alone basis for the earnings test rate base (if applicable), the end of test period rate base, and the fully-adjusted rate base on a Virginia jurisdictional basis.

## **Schedule 37 - Organization**

Instructions: Provide an organizational chart of the applicant and its parent company detailing subsidiaries and divisions. Provide details of any material corporate reorganizations since the applicant's last rate case. Explain the reasons for and any ratemaking impact of each such reorganization.

## **Schedule 38 - Changes in Accounting Procedures**

Instructions: Detail any material changes in accounting procedures adopted by either the parent/service company or the utility since the applicant's last rate case. Explain any ratemaking impact of such changes.

Identify any write-offs or write-downs associated with assets (i.e., plant, tax accounts, etc.) that have been retained, transferred, or sold.

## **Schedule 39 - Out-of-Period Book Entries**

Instructions: Provide a summary schedule prepared from an analysis of journal entries showing "out-of-period" items booked during the test period. Show the amount, USOA account, and explanation of each charge.

## **Schedule 40 - Jurisdictional and Class Cost of Service Study**

Instructions: Use the format of Form Schedule 40.

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide functionally separate

schedules for generation, transmission, and distribution information for subsections a, b, and c of these instructions as well as bundled information. Each functional schedule shall provide separate columns, as applicable, for each rate adjustment clause approved by the commission under § 56-585.1 A 4, A 5, or A 6 of the Code of Virginia.

a. Provide detailed calculations for all jurisdictional allocations for each revenue, expense and rate base USOA account used to create Schedules 9 and 10. Allocations should be based on test period average data. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor as well as any significant changes in allocation methodology since the last rate case. For any change in allocation methodology used in the current rate case that has a material effect on the current test period cost of service study, provide Schedule 40a using both the new methodology used in the current rate case and the old methodology used in the last rate case.

b. Provide detailed calculations for all jurisdictional allocations for each revenue, expense and rate base USOA account used to create Schedules 19 and 22. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor as well as any significant changes in allocation methodology since the last rate case. Provide the calculations supporting the applicant's line loss percentages. Additionally, clearly show the derivation of the transmission cost components allocated to Virginia. For any change in allocation methodology used in the current rate case that has a material effect on the current test period cost of service study, provide Schedule 40b using both the new methodology used in the current rate case and the old methodology used in the last rate case.

c. Provide a class cost of service study showing the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Class transmission allocations shall reflect the Virginia retail information that has been converted from the Federal Energy Regulatory Commission approved wholesale information. Provide a detailed calculation and explanation showing how the Federal Energy Regulatory Commission wholesale transmission information is converted to Virginia retail information. Discuss all changes in the applicant's operations that have materially changed any allocation factor as well as any significant changes in allocation

methodology since the last rate case. For any change in allocation methodology used in the current rate case that has a material effect on the current test period cost of service study, provide Schedule 40c using both the new methodology used in the current rate case and the old methodology used in the last rate case.

#### **Schedule 41 - Proposed Rates and Tariffs**

Instructions: Provide a summary of the rates designed to effect the proposed revenue increase. Provide a redline copy of all tariff pages that the applicant proposes to revise in this proceeding.

#### **Schedule 42 - Present and Proposed Revenues**

Instructions:

a. Provide the detailed calculations supporting total per books revenues in Column (3) of Schedule 21. The present revenues from each of the applicant's services shall be determined by multiplying the current rates times the test period billing units (by rate block, if applicable).

b. Provide a detailed calculation supporting total adjusted revenues in Column (5) of Schedule 21. The proposed revenues from each of applicant's services shall be determined by multiplying the proposed rates by the adjusted billing units (by rate block, if applicable). Detail by rate schedule all miscellaneous charges and other revenues, if applicable. Reconcile per books billing units to adjusted billing units itemizing changes such as customer growth, weather, and miscellaneous revenues. The revenue changes for applicant's services should be subtotaled into the applicant's traditional categories.

#### **Schedule 43 - Sample Billing**

Instructions: Investor-owned electric utilities shall provide a sample billing analysis detailing the effect on each rate schedule at representative levels of consumption.

#### **Schedule 44 - Rate Adjustment Clauses Pursuant to § 56-585.1 A 4, A 5, or A 6 of the Code of Virginia**

Instructions: Use the format of Form Schedule 44.

Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 44.

Provide a schedule that identifies each commission-approved rate adjustment clause and each individual future deferral mechanism for which amounts have been removed from generation and distribution base rate cost of service in Columns (2), (3), and (4) of Schedules 10, 13, 20, and 23 in separate columns. Schedule 44 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 44A, reflecting rate adjustment clauses and future deferral mechanisms for generation only operations, and Schedule 44B reflecting rate adjustment

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clauses and future deferral mechanisms for distribution only operations, using the same format as Schedule 44.

Provide a narrative description for each individual future deferral mechanism for which amounts have been removed from base rate cost of service in Column (4) of Schedules 10, 13, 20, and 23.

Provide support by general ledger account for each amount shown in Schedule 44 electronically to the Division of Utility Accounting and Finance within five business days of the application filing date in an electronic spreadsheet with all underlying formulas and assumptions.

## **Schedule 45 - Return on Equity Peer Group Benchmark**

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide all documentation supporting the return on equity benchmark proposed pursuant to § 56-585.1 A 2 a and A 2 b of the Code of Virginia. Such documentation shall include a complete list of all potential peer group utilities with corresponding returns calculated for each of the three years within the requisite three-year period. Securities and Exchange Commission documents in which such peer group returns are reported for the three-year period, a detailed explanation of why utilities were excluded from the peer group, and a spreadsheet showing how such returns were calculated.

## **Schedule 46 - Rate Adjustment Clauses and Prudency Determinations Pursuant to Chapter 23 (§ 56-576 et seq.) of the Code of Virginia**

a. Instructions for initial applications: For an initial proposed rate adjustment clause or a prudency determination without an associated rate adjustment clause, the applicant shall provide the following for each associated project:

(1) A schedule of all projected and actual costs, by project, type of cost and year and by month.

(2) A schedule of all actual costs (including both capital costs and operations and maintenance expenses) incurred to-date. Within five business days of the application filing date, the applicant shall provide transaction-level details to facilitate the sampling and audit of such actual costs electronically to the Division to Utility Accounting and Finance in an electronic spreadsheet with all underlying formulas and assumptions.

(3) The annual revenue requirement on both a total company and Virginia jurisdictional basis for the duration of each proposed project by year and by class, including all supporting calculations and assumptions.

(4) Information relative to the applicant's methodology for allocating the revenue requirement among rate classes and the design of class rates.

(5) A detailed explanation of the need for the proposed project.

(6) Economic analyses, with supporting workpapers and calculations, supporting the proposed project.

(7) Materials used by senior management in approving or recommending each proposed project.

(8) Key supporting documents relied upon by the applicant such as: contracts, studies, investigations, results from requests for proposals, cost-benefit analyses, and other items supporting the costs associated with each proposed project.

b. Additional instructions for initial applications for generating unit additions: For an initial proposed rate adjustment clause or for a prudency determination without an associated rate adjustment clause associated with a generating unit, the applicant shall provide the following to support the reasonableness and prudence of each associated project:

(1) Information relative to the need of the proposed generating unit, such as load and generating capacity reserve forecast information.

(2) Feasibility and engineering studies that support the specific plant type and site selected.

(3) Fuel supply studies that demonstrate the availability and adequacy of selected fuels.

(4) Support for planning assumptions regarding plant performance and operating costs, including historical information for similar units.

(5) Economic studies that compare the selected alternative with other options considered, including sensitivity analyses and production costing simulations of the applicant's overall generating resources that demonstrate that the selected option is the best alternative.

(6) Detailed cost estimate for the facility, including projected costs of construction, transmission interconnections, fuel supply related infrastructure improvements, and project financing.

c. Instructions for rate adjustment clause updates: For an update to a commission-approved rate adjustment clause, the applicant shall provide the following for each associated project:

(1) An updated schedule of all projected and actual costs, by project, type of cost and year and by month.

(2) An update to the schedule of all actual costs provided in the previous rate adjustment clause application (including both capital costs and operations and maintenance expenses). If the rate adjustment clause update includes a true-up, provide such schedule for

costs incurred through the true-up period. If the rate adjustment clause does not include a true-up, provide the schedule based on most current actual costs available to-date. Within five business days of the application filing date, the applicant shall provide transaction-level details to facilitate the sampling and audit of such actual costs electronically to the Division to Utility Accounting and Finance in an electronic spreadsheet with all underlying formulas and assumptions.

(3) The annual revenue requirement on both a total company and Virginia jurisdictional basis for the duration of each proposed project by year and by class, including all supporting calculations and assumptions.

(4) Detailed information relative to the applicant's methodology for allocating the revenue requirement among rate classes and the design of class rates.

(5) Key updated supporting documents, such as economic analyses, support used by senior management for major cost decisions, supporting documents, contracts, studies, investigations, results from requests for proposals, cost-benefit analyses, and other items supporting the costs for each project that have not been provided in previous applications.

d. Additional instructions for transmission rate adjustment clauses: Applicant shall provide the docket/case number and Federal Energy Regulatory Commission ruling approving the transmission rate/cost for which the applicant is seeking recovery approval. In lieu of providing a copy, the applicant may provide a link to where such information can be found on the Internet.

e. Additional instructions for energy efficiency rate adjustment clauses: In a rate adjustment clause filing where the applicant is seeking to update commission-approved energy efficiency programs, the applicant shall file evidence of the actual energy and demand savings achieved as a result of each specific program for which cost recovery is sought, along with revised cost-benefit tests that incorporate actual utility-specific energy and demand savings and cost data.

Applicant shall provide a description of the significant accounting procedures and internal controls in place for each energy efficiency program that is administered by either a third-party or by the applicant, including (i) a description of the internal controls and procedures for rebate, incentive, and vendor payments for each newly approved energy efficiency program; (ii) a discussion of any changes in internal controls and procedures since the previous filing for existing energy efficiency programs; and (iii) support for how the applicant is ensuring that internal controls and procedures for all energy efficiency programs are functioning correctly.

## **Schedule 47 - Total Aggregated Revenues and Consumer Price Index**

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall file the following:

a. A detailed schedule showing the calculation of total aggregate regulated rates as defined in § 56-585.1 A 9 of the Code of Virginia for each year beginning with calendar year 2010.

b. A schedule of annual increases in the United States Average Consumer Price Index as described in § 56-585.1 A 9 of the Code of Virginia beginning with calendar year 2010. Additionally, include the annual compounded amount.

## **Schedule 48 - § 56-585.1 A 8 of the Code of Virginia costs and credits**

a. Instructions for per books costs pursuant to § 56-585.1 A 8 of the Code of Virginia: Applicant shall provide a supporting schedule quantifying each cost that is reflected in Schedule 11, Column (1) as it was recorded per books by the utility for financial reporting purposes pursuant to § 56-585.1 A 8 of the Code of Virginia.

Such schedule should provide cost details by month for each individual cost item.

Applicant shall provide a narrative description of, and any internal accounting memoranda and guidance from external auditors to support, the accounting for each cost item reflected in Schedule 11, Column (1) as it was recorded per books by the utility for financial reporting purposes pursuant to § 56-585.1 A 8 of the Code of Virginia electronically to the Division of Utility Accounting and Finance within five business days of the application filing date.

b. Instructions for costs eligible for customer credit reinvestment offset: Applicant shall provide a schedule quantifying all capital expenditures eligible for use as a customer credit reinvestment offset as of the end of the test period. Such schedule should provide cost details by capital project and should include the plant-in-service and accumulated depreciation balances associated with each project.

Applicant shall identify where each capital project eligible for customer credit reinvestment offset is reflected in cost of service as of the end of the test period.

c. Instructions for customer credits and customer credit reinvestment offsets: Applicant shall provide a schedule calculating any credits due to customers using the calculation prescribed by § 56-585.1 A 8 of the Code of Virginia.

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# Regulations

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If the applicant proposes to use the customer credit reinvestment offset to offset any portion of credits due to customers, applicant shall provide a schedule quantifying the capital investments it proposes to use as a customer credit reinvestment offset.

## **Schedule 49 - Additional Schedules**

Reserved for additional exhibits presented by the applicant to be labeled Schedule 49 et seq.

**NOTICE:** Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

## **FORMS (20VAC5-204)**

[Forms - Schedule 1 - Historical Profitability and Market Data](#)

[Forms - Schedule 2 - Interest and Cash Flow Coverage Data](#)

[Forms - Schedule 3 - Capital Structure & Cost of Capital Statement - Per Books and Average](#)

[Forms - Schedule 9 - Rate of Return Earnings Statement Test - Per Books](#)

[Forms - Schedule 10 - Rate of Return - Earnings Test - Generation and Distribution Per Books](#)

[Forms - Schedule 11 - Rate of Return Statement - Earnings Test - Adjusted to a Regulatory Accounting Basis](#)

[Forms - Schedule 12 - Rate of Return Earnings Statement Test - Per Books](#)

[Forms - Schedule 13 - Rate Base Statement - Earnings Test - Generation and Distribution Per Books](#)

[Forms - Schedule 14 - Rate Base Statement - Earnings Test - Adjusted to a Regulatory Accounting Basis](#)

[Forms - Schedule 15 - Schedule of Regulatory Assets](#)

[Forms - Schedule 16 - Detail of Regulatory Accounting Adjustments](#)

[Forms - Schedule 17 - Lead/Lag Cash Working Capital Calculation - Earnings Test](#)

[Forms - Schedule 18 - Balance Sheet Analysis - Earnings Test](#)

[Forms - Schedule 19 - Rate of Return Earnings Statement Test - Per Books - For the Test Year](#)

[Forms - Schedule 20 - Rate of Return Statement - Generation and Distribution Per Books](#)

[Forms - Schedule 21 - Rate of Return Statement - Reflecting Ratemaking Adjustments](#)

[Forms - Schedule 22 - Rate Base Statement - Per Books](#)

[Forms - Schedule 23 - Rate Base Statement - Generation and Distribution Per Books](#)

[Forms - Schedule 24 - Rate Base Statement - Reflecting Ratemaking Adjustments](#)

[Forms - Schedule 25 - Detail of Ratemaking Adjustments](#)

[Forms - Schedule 26 - Revenue Requirement Reconciliation - FOR ILLUSTRATIVE PURPOSES ONLY](#)

[Forms - Schedule 27 - Lead/Lag Cash Working Capital Calculation - Adjusted](#)

[Forms - Schedule 28 - Balance Sheet Analysis - Adjusted](#)

[Forms - Schedule - 40a and b - Jurisdictional Cost of Service Study](#)

[Forms - Schedule 40C - Class Cost of Service Study](#)

[Forms - Schedule 44 - Detail of Rate Adjustment Clauses included in Columns \(2\) - \(4\) of Schedules 10 and 13](#)

VA.R. Doc. No. R20-6240; Filed April 20, 2020, 9:51 a.m.

## EXECUTIVE ORDER NUMBER FIFTY-SEVEN (2020)

### **Licensing of Health Care Professionals in Response to Novel Coronavirus (COVID-19)**

#### Importance of the Issue

The COVID-19 disease, caused by a virus that spreads easily from person to person that may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, has spread throughout the Commonwealth. The number of cases of COVID-19 continues to increase within the Commonwealth and in neighboring states. It is anticipated that COVID-19 will result in increased demands on the Commonwealth's health professional workforce that will require additional personnel. Authorizing out-of-state licensed professionals, as well as residents, interns, and certain senior students to practice in the Commonwealth will assist in meeting that demand. In addition, permitting experienced nurse practitioners to practice without a practice agreement will increase the availability of primary care and hospital providers. Finally, expanding the use of telehealth will assist in the provision of needed health care services to the citizens of the Commonwealth.

#### Directive

Therefore, by virtue of the authority vested in me by the Constitution of Virginia and § 44-146.17 of the Code of Virginia, during the state of emergency declared in Executive Order 51, I hereby order the following:

1. During the state of emergency declared by Executive Order 51, a license in good standing issued to a health care practitioner by another state shall be deemed to be an active license issued by the Commonwealth to provide health care or professional services as a health care practitioner of the same type for which such license is issued in another state, provided such health care practitioner is engaged by a hospital or an affiliate of such hospital where both share the same corporate parent, licensed nursing facility, dialysis facility, physicians' office, or other health care facility in the Commonwealth for the purpose of assisting that office or facility with public health and medical disaster response operations. Hospitals, licensed nursing facilities, dialysis facilities, physicians' offices, and other health care facilities must submit to the applicable licensing board each out-of-state health care practitioner's name, license type, state of license, and license identification number within a reasonable time of such healthcare practitioner providing services for the health care facility or office in the Commonwealth. A health care facility includes assisted living facilities, congregate care settings, and any alternate care facility established in response to the COVID-19 emergency.
2. A clinical psychologist, professional counselor, marriage and family therapist, and clinical social worker with an active license issued by another state may be issued a temporary license by endorsement as a health care practitioner of the same type for which such license is issued in another state upon submission of an application and information requested by the applicable licensing board and the board's verification that the applicant's license issued by another state is active in good standing and there are no current reports in the United States Department of Health and Human Services National Practitioner Data Bank. Such temporary license shall expire ninety (90) days after the state of emergency ends. During such time the practitioner may seek a full Virginia license or transition patients to Virginia-licensed practitioners.
3. Health care practitioners with an active license issued by another state may provide continuity of care to their current patients who are Virginia residents through telehealth services. Establishment of a relationship with a new patient requires a Virginia license unless pursuant to paragraphs 1 or 2 above.
4. A healthcare practitioner may use any non-public facing audio or remote communication product that is available to communicate with patients. This exercise of discretion applies to telehealth provided for any reason regardless of whether the telehealth service is related to the diagnosis and treatment of COVID-19.
5. Nurse practitioners licensed in the Commonwealth of Virginia, except those licensed in the category of certified registered nurse anesthetists, with two or more years of clinical experience may practice in the practice category in which they are certified and licensed and prescribe without a written or electronic practice agreement.
6. Interns, residents, and fellows with active temporary training licenses to practice medicine issued by the Virginia Board of Medicine may practice in a hospital, including a clinic or alternate care facility operated by a hospital, without the supervision of a licensed physician or fully licensed member of the applicable faculty program at all times. The level of supervision required for each intern, resident, and fellow shall be established by the training program in coordination with the hospital where practice is occurring.
7. Senior fourth year medical students may practice in a hospital, including a clinic or alternate care facility operated by a hospital, without the direct tutorial supervision by a licensed physician member of the hospital staff. The level of supervision required for each student shall be established by the institution in coordination with the hospital where practice is occurring.
8. Individuals who have completed an accredited respiratory care program may practice respiratory therapy

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# Governor

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and for ninety (90) days thereafter or until the individual has passed the National Board on Respiratory Care licensure examination and been issued a license or has failed the examination, whichever occurs first.

Nothing in this order designates the healthcare practitioners above as agents of the Commonwealth.

These actions are in concert with, and further the provisions of Executive Order 51 in marshalling all resources and appropriate preparedness, response, and recovery measures to respond to the emergency.

Effective Date of this Executive Order

This Executive Order shall be effective April 17, 2020, and shall remain in full force and in effect until June 10, 2020, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 17th day of April, 2020.

/s/ Ralph S. Northam  
Governor

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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Title of Document: [Guidelines for the Beehive Distribution Program.](#)

Public Comment Deadline: June 10, 2020.

Effective Date: July 1, 2020.

Agency Contact: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, or email [david.gianino@vdacs.virginia.gov](mailto:david.gianino@vdacs.virginia.gov).

### DEPARTMENT OF LABOR AND INDUSTRY

Title of Document: [Virginia BUILT- Building Safety and Health Excellence in Construction Through Mentorship and Training.](#)

Public Comment Deadline: June 10, 2020.

Effective Date: June 11, 2020.

Agency Contact: Holly Trice, Attorney, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-2641, or email [holly.trice@doli.virginia.gov](mailto:holly.trice@doli.virginia.gov).

### DEPARTMENT OF MOTOR VEHICLES

Titles of Documents:

[DMV Information - Use Criteria.](#)

[Frequently Asked Questions about Farm Vehicles.](#)

Public Comment Deadline: June 10, 2020.

Effective Date: June 11, 2020.

Agency Contact: Melissa K. Velazquez, Legislative Manager, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-1844, or email [melissa.velazquez@dmv.virginia.gov](mailto:melissa.velazquez@dmv.virginia.gov).

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# GENERAL NOTICES/ERRATA

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## STATE CORPORATION COMMISSION

### Bureau of Insurance

April 14, 2020

Administrative Letter 2020-02

To: All Virginia Domiciled Insurers Licensed in Virginia

Re: Filing Requirements during the COVID-19 Public Health Emergency

The purpose of this Administrative Letter is for the Virginia Bureau of Insurance (Bureau) to advise insurance companies regarding financial filing requirements during the COVID-19 public health emergency. The filing flexibility included within this Administrative Letter, which is effective immediately, will allow insurance companies to devote resources to respond to additional information requests designed to gather specific COVID-19 related information.

#### Regulatory Filing Deadlines

Insurance companies are subject to filing deadlines when submitting electronic documents to the NAIC (e.g., quarterly financial statements, audited financial statements), or when submitting electronic or hard copy documents to the Bureau. Because of the COVID-19 public health emergency, the Bureau will grant most insurance companies an additional 30 or 60 days to complete the filings listed on the attached chart. However, insurance companies must request this extension in writing prior to the filing deadline and the Bureau reserves the right to reject a company's extension request based upon the financial condition and unique circumstances of a specific company. Any insurance company requesting a financial filing extension should submit such request to the Bureau at [boifiling@scc.virginia.gov](mailto:boifiling@scc.virginia.gov). The granting of an extension does not prevent insurance companies from filing any documents in advance of the revised due dates and insurance companies are encouraged to do so.

#### Electronic Filings and Signatures

In certain instances, the Bureau requires insurance companies to file documents in hard copy form with notarized signatures. The hard copy and notary requirements are temporarily waived. The Bureau will accept electronic filings and signatures.

However, insurance companies are expected to keep a list of all filings that were made electronically in lieu of hard copy filings so that they can file all the hard copies within 60 days after the Commonwealth of Virginia has allowed a return to work. The Bureau expects electronic communication will be used by insurance companies on all other financial related communication, with hard copies provided within 60 days if required by law.

#### On-site Examinations

The Bureau will not conduct any on-site examination work during the COVID-19 public health emergency. Instead, the Bureau will conduct all scheduled examinations remotely until further notice. The examiner-in-charge of the examination will work with the insurance company being examined to determine the most efficient manner to conduct the examination. The Bureau in most instances will need to request more information in electronic format to complete these examinations. The Bureau acknowledges that response times from insurance companies may be slower as many of their employees are currently working from home. The Bureau expects independent auditors will operate similarly, therefore an extended due date for the Audited Financial Report is granted as noted above.

Questions regarding this letter are encouraged to be emailed to Connie T. Duong, Manager, Domestic Financial Analysis Section, Financial Regulation Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond VA 23218, email [connie.duong@scc.virginia.gov](mailto:connie.duong@scc.virginia.gov).

/s/ Scott A. White  
Commissioner of Insurance

FILINGS AND EXTENSIONS

Annual Filings with Potential 30-day delay	Due Date	Extended Due Date
Combined Annual Statement	5/1/20	6/1/20
Accountant's Letter of Qualifications	6/1/20	7/1/20
PBR Exemption	To State 7/1/20 To NAIC 8/15/20	8/1/20 9/15/20

Annual Filings with Potential 60-day delay	Due Date	Extended Due Date
Form B Registration Statement & Related Form C	4/30/20	6/30/20
Enterprise Risk Report (Form F)	4/30/20	6/30/20
Actuarial Memorandum Required by Actuarial Guideline XXXVIII 8D	4/30/20	6/30/20
Audited Financial Report	6/1/20	8/1/20
Corporate Governance Annual Disclosure	6/1/20	8/1/20
Communication of Internal Control Related Matters Noted in Audit	8/1/20	10/1/20
Management's Report of Internal Control Over Financial Reporting	8/1/20	10/1/20
Own Risk and Solvency Assessment (ORSA)	12/1/20	2/1/21

Quarterly Filings with Potential 30-day delay	Due Date	Extended Due Date
Quarterly Financial Statement	5/15/20	6/15/20
Trusted Surplus Statement	5/15/20	6/15/20
Supplement A to Schedule T	5/15/20	6/15/20
Medicare Part D Coverage Supplement	5/15/20	6/15/20
Reasonableness of Assumptions Certification Required by Actuarial Guideline XXXV	5/15/20	6/15/20
Reasonableness and Consistency of Assumptions Certification Required by Actuarial Guideline XXXV	5/15/20	6/15/20
Reasonableness of Assumptions Certification for Implied Guaranteed Rate Method Required by Actuarial Guideline XXXVI	5/15/20	6/15/20
Reasonableness and Consistency of Assumptions Certification Required by Actuarial Guideline XXXVI (Updated Average Market Value)	5/15/20	6/15/20

# General Notices/Errata

## DEPARTMENT OF GENERAL SERVICES

### Revision to Fees for Drinking Water Laboratory Certification - Final General Notice

The Division of Consolidated Laboratory Services (DCLS), Department of General Services, published a general notice in [36:15 VA.R. 2062-2063 March 16, 2020](#), seeking comment on the revision to fees charged for certifying drinking water laboratories under 1VAC30-41-270 as required by subdivision I 2 of 1VAC30-41-270.

No comments were received. The revision to the fees will stand as published. The following fees are effective for May 1, 2020, through April 30, 2021, for drinking water laboratory certification under 1VAC30-41-270.

TESTING CATEGORY	FEE (\$)
Microbiological testing	
1 - 2 methods	659
3 - 5 methods	768
6+ methods	878
Inorganic chemistry, nonmetals testing	
1 - 2 methods	713
3 - 5 methods	931
6 - 8 methods	1152
9+ methods	1371
Inorganic chemistry, metals testing	
1 - 2 methods	1096
3 - 5 methods	1315
6+ methods	1533
Organic chemistry	
1 - 2 methods	1152
3 - 5 methods	1371
6 - 8 methods	1589
9+ methods	1810
Radiochemistry	
1 - 2 methods	1207
3 - 5 methods	1425
6+ methods	1645
Asbestos	
1 - 2 methods	986
3 - 5 methods	1207
6+ methods	1425

How fees are calculated: DCLS calculates a laboratory's total fee by adding the fees for the number of test methods in each category in the fee table for which the laboratory is certified or applies to be certified. Contact [lab\\_cert@dgs.virginia.gov](mailto:lab_cert@dgs.virginia.gov) for more information about the fee category for a specific method.

Additional fees:

Additional fees apply when a laboratory:

- Applies for modification of certification under 1VAC30-41-110
- Is moving its location when the move requires DCLS to perform an onsite assessment
- Requests reinstatement of certification when DCLS requires an onsite assessment

Hourly review fee and calculation of total fee: The fee to be charged is the sum of the total hourly charges for all reviewers plus any onsite assessment costs incurred. The hourly charge per reviewer is \$67. The charge per reviewer is determined by multiplying the number of hours expended in the review by \$67.

Onsite review and travel expenses: If an onsite review is required, travel time and onsite review time will be charged at the same hourly rate of \$67 and any travel expenses will be added.

When to pay: Payment is due at the time the application is made or annually thereafter upon receipt of the invoice from DCLS. Annual billing precedes the expiration of the current certificate.

How to pay: Fees may be paid by check, draft, or postal money order payable to the Treasurer, Commonwealth of Virginia or submitted electronically, if available. Payment must be in U.S. currency, except that agencies and institutions of the Commonwealth of Virginia may submit interagency transfers for the amount of the fee. Laboratories may also pay fees using credit cards. All fees must be sent to the following address or submitted electronically, if available: DCLS, Attn: Lab Certification, 600 North 5th Street, Richmond, VA 23219. A fee payment form is available on the Drinking Water page of the DCLS website at [www.dgs.virginia.gov/dcls](http://www.dgs.virginia.gov/dcls).

Contact Information: Rhonda Bishton, Director's Executive Administrative Assistant, Department of General Services, 1100 Bank Street, Suite 420, Richmond, VA 23219, email [rhonda.bishton@dgs.virginia.gov](mailto:rhonda.bishton@dgs.virginia.gov), telephone (804) 786-3311, or FAX (804) 371-8305.

## DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

### Intent to Amend the Virginia State Plan for Medical Assistance Pursuant to § 1902(a)(13) of the Social Security Act (USC § 1396a(a)(13)) - ARTS Updates

Comment period: April 21, 2020, to May 20, 2020.

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 Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR 447.205 and § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from Emily McClellan, Department of Medical Assistance Services, 600 Broad Street, Suite 1300, Richmond, VA 23219, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted in writing within 30 days of this notice publication to Emily McClellan and such comments are available for review at the same address. Comments may also be submitted in writing on the Virginia Regulatory Town Hall public comment forum attached to this notice at <https://townhall.virginia.gov/L/generalnotice.cfm>.

Reimbursement Changes Affecting Other Types of Care (12VAC 30-80): The changes made to 12VAC30-80-32 on March 6, 2020, will be replicated in the state plan. These changes relate to the rates paid to psychiatrists and other licensed or registered individuals for substance use disorder counseling services, as well as the rates paid for office-based opioid treatment services and opioid treatment programs. The full text of the changes may be viewed at <https://townhall.virginia.gov/L/ViewXML.cfm?textid=14082>, then scrolling down to 12VAC30-80-32.

There is no expected increase or decrease in annual expenditures as a result of these changes.

**Contact Information:** Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

## STATE WATER CONTROL BOARD

### Proposed Consent Order for American Hardwood Industries LLC

An enforcement action has been proposed for American Hardwood Industries LLC (AHI) for violations at the Warm Springs Mill and at the Lexington Mill. The State Water Control Board proposes to issue a consent order with penalty and injunctive relief to AHI to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Eric Millard will accept comments by email at [eric.millard@deq.virginia.gov](mailto:eric.millard@deq.virginia.gov), FAX at (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from May 11, 2020, to June 10, 2020.

### Proposed Consent Order for Bristow Shopping Center Limited Partnership LLP

An enforcement action has been proposed for Bristow Shopping Center Limited Partnership LLP for violations of the State Water Control Law and regulations at the Heritage Mall Citgo located in Annandale, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the Heritage Mall Citgo. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Benjamin Holland will accept comments by email at [benjamin.holland@deq.virginia.gov](mailto:benjamin.holland@deq.virginia.gov) or by postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from May 11, 2020, through June 10, 2020.

### Proposed Consent Order for Town of Front Royal

An enforcement action has been proposed for the Town of Front Royal for violations at the Front Royal waste water treatment plant. The State Water Control Board proposes to issue a consent order with penalty, injunctive relief, and a supplemental environmental project to the Town of Front Royal to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Eric Millard will accept comments by email at [eric.millard@deq.virginia.gov](mailto:eric.millard@deq.virginia.gov), FAX at (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from May 11, 2020, to June 10, 2020.

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## General Notices/Errata

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### **Proposed Consent Special Order for JFS Holdings LLC**

The State Water Control Board proposes to issue a consent special order to JFS Holdings LLC for alleged violation of the State Water Control Law at the King William Tractor Supply located at the corner of State Route 30 and King William Road. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Jeff Reynolds will accept comments by email at [jefferson.reynolds@deq.virginia.gov](mailto:jefferson.reynolds@deq.virginia.gov), FAX at (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office (Enforcement), 4949-A Cox Road, Glen Allen, VA 23060, until June 11, 2020.

### **Proposed Consent Order for Mr. Gurcharan Lail**

An enforcement action has been proposed for Mr. Gurcharan Lail for violations of the State Water Control Law and regulations at One Stop Trailer Park located in Leesburg, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with One Stop Trailer Park. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Benjamin Holland will accept comments by email at [benjamin.holland@deq.virginia.gov](mailto:benjamin.holland@deq.virginia.gov) or by postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from May 11, 2020, through June 10, 2020.

### **Proposed Enforcement Action for Rudy's Truck & Auto Parts LLC**

An enforcement action has been proposed for Rudy's Truck & Auto Parts 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 listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Russell Deppe will accept comments by email at [russell.deppe@deq.virginia.gov](mailto:russell.deppe@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 May 11, 2020, to June 10, 2020.

## **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/cumultab.pdf>.

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