



VIRGINIA

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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.

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; **Marcus B. Simon**, Vice Chair; **Ward L. Armstrong**; **Nicole Cheuk**; **Leslie L. Lilley**; **Jennifer L. McClellan**; **Christopher R. Nolen**; **Don L. Scott, Jr.**; **Charles S. Sharp**; **Samuel T. Towell**; **Malfourd W. Trumbo**; **Amigo R. Wade**.

Staff of the Virginia Register: **Holly Trice**, Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Nikki Clemons**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Senior Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

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

November 2021 through December 2022

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
38:7	November 3, 2021	November 22, 2021
38:8	November 15, 2021 (Monday)	December 6, 2021
38:9	December 1, 2021	December 20, 2021
38:10	December 13, 2021 (Monday)	January 3, 2022
38:11	December 29, 2021	January 17, 2022
38:12	January 12, 2022	January 31, 2022
38:13	January 26, 2022	February 14, 2022
38:14	February 9, 2022	February 28, 2022
38:15	February 23, 2022	March 14, 2022
38:16	March 9, 2022	March 28, 2022
38:17	March 23, 2022	April 11, 2022
38:18	April 6, 2022	April 25, 2022
38:19	April 20, 2022	May 9, 2022
38:20	May 4, 2022	May 23, 2022
38:21	May 18, 2022	June 6, 2022
38:22	June 1, 2022	June 20, 2022
38:23	June 15, 2022	July 4, 2022
38:24	June 29, 2022	July 18, 2022
38:25	July 13, 2022	August 1, 2022
38:26	July 27, 2022	August 15, 2022
39:1	August 10, 2022	August 29, 2022
39:2	August 24, 2022	September 12, 2022
39:3	September 7, 2022	September 26, 2022
39:4	September 21, 2022	October 10, 2022
39:5	October 5, 2022	October 24, 2022
39:6	October 19, 2022	November 7, 2022
39:7	November 2, 2022	November 21, 2022
39:8	November 14, 2022 (Monday)	December 5, 2022

*Filing deadlines are Wednesdays unless otherwise specified.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and a small business impact review of **9VAC25-190, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining**, and determined that this regulation should be amended. The department is publishing its report of findings dated September 10, 2021, to support this decision.

The regulation establishes a general permit for stormwater discharges associated with nonmetallic mineral mining industrial facilities and is necessary for the protection of public health, safety, and welfare. The regulation is clearly written and easily understandable.

The regulation is effective and continues to be needed; however, this general permit is scheduled to expire on June 30, 2024. This regulation will be amended to reissue the general permit, and the agency will consider revisions to the permit as part of the amendment process. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The permit regulation specifies requirements that protect water quality downstream from the discharge. If this regulation were repealed, individual permits would be required to conduct these activities.

Comments were received from the Virginia Transportation Construction Alliance (VTCA) during the periodic review. The Department of Environmental Quality (DEQ) is aware of VTCA's ongoing concerns with the challenges that large storms can pose to permitted facilities, including nonmetallic mines. In an effort to explore potential solutions, DEQ has met with the industry two times to date outside of the periodic review process to discuss the industry's concerns.

This regulation establishes procedures for obtaining coverage under this general permit, and portions of the regulation may be viewed as complex due to the technical requirements included in the regulation. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water.

The State Water Control Board last reissued this regulation in 2019. This regulation is evaluated and necessary changes are made to the regulation when the permit is reissued.

The reissuance of the general VPDES permit accomplishes the objectives of applicable law, minimizes the costs to a small business owner, and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase

the complexity of a permit application and the costs to obtain permit coverage.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and a small business impact review of **9VAC25-194, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities**.

The proposed regulatory action to amend 9VAC25-194, which is published in this issue of the Virginia Register, serves as the report of findings.

Contact Information: Eleanore Daub, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4178, or email eleanor.daub@deq.virginia.gov.



TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative Services conducted a periodic review and a small business impact review of **22VAC30-80, Auxiliary Grants Program**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 19, 2021, to support this decision.

The Auxiliary Grants (AG) Program is an income supplement for individuals who receive Supplemental Security Income (SSI) and certain other aged, blind, or disabled individuals who reside in a licensed assisted living facility (ALF), an approved adult foster care home (AFCH), or a certified supportive housing (SH) setting. An AG payment is issued to an individual monthly, to be used with a designated amount of their monthly income to pay the maximum monthly AG Program rate. The AG Program rate is determined by the Virginia General Assembly and is adjusted periodically. The AG Program is 80% state funded and 20% locally funded.

The AG Program regulations address standards for AG Program providers for the three settings (ALF, AFCH, and SH). This regulation meets the criteria set out in Executive

Periodic Reviews and Small Business Impact Reviews

Order 14, as amended, July 16, 2018, as it is necessary for the protection of public health, safety, and welfare. This regulation is clearly written and easily understandable. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation.

The agency recommends the regulation be amended in order to update the forms filed with the regulation. Updated forms are available and need to be filed accordingly. No other revisions to the regulation are needed at this time. There is a continued need for the regulation as the regulation is mandated by law and protects the health, welfare, and safety of individuals in the AG Program. No complaints or comments about the regulation were received during the periodic review. The regulation is designed to support clarity and ensure transparency with the AG Program and the operations of AG Program providers.

The regulation comprises only those requirements for the implementation of the AG Program. The AG Program operates under the authority and approval of the Social Security Administration. As a state-funded and locally-funded program, there are no other federal or state regulations for the AG Program. As such, the regulation does not conflict with federal or state law or regulation.

The regulation was last revised in 2019 as directed by Chapters 657 and 658 of the 2019 Acts of Assembly. This legislation allowed individuals receiving AG to select SH without any requirement that such individuals wait until the individual's first or any subsequent annual reassessment to make a SH selection.

This regulation does impact small businesses. Many of the AG Program providers would likely be considered small businesses. However, the regulation does not include overly burdensome requirements, reinforces common standards for business management, and protects the health and safety of the individuals in the AG Program.

Contact Information: Charlotte Arbogast, Policy Analyst, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider repealing **24VAC35-20, Policy and Procedure Manual**. The purpose of the proposed action is to repeal the regulation because the majority of the information contained in the current regulation is no longer accurate or applicable. The regulation no longer reflects current agency operational procedures.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comment Deadline: December 8, 2021.

Agency Contact: Richard Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email richard.foy@vasap.virginia.gov.

VA.R. Doc. No. R22-6991; Filed October 18, 2021, 9:56 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider repealing **24VAC35-30, VASAP Case Management Policy and Procedure Manual**. The purpose of the proposed action is to repeal the regulation because the majority of the information contained in the current regulation is no longer accurate or applicable. The regulation no longer reflects current agency operational procedures.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comment Deadline: December 8, 2021.

Agency Contact: Richard Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email richard.foy@vasap.virginia.gov.

VA.R. Doc. No. R22-6992; Filed October 18, 2021, 9:56 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider repealing **24VAC35-40, Certification Requirements Manual**. The purpose of the proposed action is to repeal the regulation because the majority of the information contained in the current regulation is no longer accurate or applicable. The regulation no longer reflects current agency operational procedures.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comment Deadline: December 8, 2021.

Agency Contact: Richard Foy, Field Services Specialist, Commission on the Virginia Alcohol Safety Action Program, 1111 East Main Street, Suite 801, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email richard.foy@vasap.virginia.gov.

VA.R. Doc. No. R22-6993; Filed October 18, 2021, 9:57 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act pursuant to § 3.2-5145.5 of the Code of Virginia. Prior to adopting such regulation, the board must publish a notice of opportunity to comment in the Virginia Register of Regulations. Such notice of opportunity to comment shall contain (i) a summary of the proposed regulation; (ii) the text of the proposed regulation; and (iii) the name, address, and telephone number of the agency contact person responsible for receiving public comments and shall be made at least 60 days in advance of the last date prescribed in such notice for submittals of public comment. The board shall also consider and keep on file all public comments received for such regulation adopted pursuant to § 3.2-5145.5 of the Code of Virginia.

Title of Regulation: **2VAC5-595. Regulations Governing the Manufacturing and Sale of Products that Contain Industrial Hemp Extracts Intended for Human Consumption (adding 2VAC5-595-10 through 2VAC5-595-60).**

Statutory Authority: § 3.2-5145.5 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: January 7, 2022.

Agency Contact: Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804)786-8899, FAX (804) 371-7792, TDD (800) 828-1120, or email ryan.davis@vdacs.virginia.gov.

Summary:

Pursuant to Chapters 659 and 660 of the 2020 Acts of Assembly, which created a new article in the Virginia Food and Drink Law establishing requirements for the production, distribution, and sale of industrial hemp extracts intended for human consumption, the proposed regulation establishes a regulatory framework and standards for industrial hemp extract manufacturers. The proposed regulation (i) identifies specific potential contaminants of industrial hemp extract or a food

containing an industrial hemp extract and establishes tolerances for these contaminants; (ii) establishes labeling requirements for an industrial hemp extract or a food containing an industrial hemp extract; and (iii) provides testing requirements for industrial hemp extracts and criteria for independent testing laboratories that conduct required batch testing of industrial hemp extracts.

Chapter 595

Regulations Governing the Manufacturing and Sale of Products that Contain Industrial Hemp Extracts Intended for Human Consumption

2VAC5-595-10. Definitions.

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

"Approved source" means a manufacturer of an industrial hemp extract or food containing an industrial hemp extract that operates (i) under inspection by the responsible food regulatory agency in the location in which such manufacturing occurs and (ii) in compliance with the laws, regulations, or criteria that pertain to the manufacturer of an industrial hemp extract or food containing an industrial hemp extract in the location in which such manufacturing occurs.

"Batch" means a specific quantity of an industrial hemp extract that is uniform and is produced during a specified period of time under similar conditions and identified by a specific code that allows traceability.

"Cannabinoid" means a naturally-occurring, biologically active, chemical constituent of Cannabis sativa, including cannabidiol (CBD), cannabidiolic acid (CBDA), delta-9-tetrahydrocannabinol (THC), and delta-9-tetrahydrocannabinolic acid (THCA).

"Consumer" means a person who (i) purchases an industrial hemp extract or a food containing an industrial hemp extract for personal use, (ii) is not functioning in the capacity of an operator of a food establishment or food processing plant, and (iii) does not offer the industrial hemp extract or food containing an industrial hemp extract for resale.

"Consumption" means oral ingestion.

"Contaminant" means any substance not intended to be an ingredient in a food and that is potentially harmful to the consumer.

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

"Extract" means a naturally occurring phytochemical produced by the industrial hemp plant that has been removed from the inert structural material of the plant.

"Food" means any article that is intended for human consumption and introduction into commerce, whether the article is simple, mixed, or compound, and all substances or ingredients used in the preparation thereof. "Food" does not mean a drug as defined in § 54.1-3401 of the Code of Virginia. "Food" includes a dietary supplement.

"Industrial hemp" means any part of the plant Cannabis sativa with a concentration of tetrahydrocannabinol that is no greater than that allowed by federal law.

"Industrial hemp extract" means an extract (i) of a Cannabis sativa plant that has a concentration of tetrahydrocannabinol that is no greater than that allowed for hemp by federal law and (ii) that is intended for human consumption.

"Manufacturer" means a person that (i) produces a packaged food or a food intended to be used as an ingredient in a food and (ii) offers the food for sale directly to consumers or for wholesale distribution. "Manufacturer" does not include a person that adds an industrial hemp extract to food for immediate consumption by consumers in a retail food establishment or at a farmers' market, if that person did not produce the industrial hemp extract.

"Phytochemical" means any naturally occurring chemical compound in a plant.

"Processor" means a person registered pursuant to subsection A of § 3.2-4115 of the Code of Virginia to process industrial hemp.

"Production field" means the land or area on which a grower is growing or intends to grow industrial hemp.

"Retail food establishment" means a food business regulated under and operating in compliance with the Retail Food Establishment Regulations (2VAC5-585) and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia.

"Retail sale" means the sale of a product directly to a consumer.

"Total delta-9 tetrahydrocannabinol concentration" means the post-decarboxylation delta-9 tetrahydrocannabinol concentration, which can be determined using the following equation [delta-9 tetrahydrocannabinol] + (0.877 x [tetrahydrocannabinolic acid]).

"Wholesale distribution" means the sale of a product to an intermediate entity that intends to further distribute that product for retail sale.

2VAC5-595-20. Regulated articles.

Industrial hemp extracts and foods containing an industrial hemp extract are subject to the provisions of this chapter.

2VAC5-595-30. Inspection required.

A. A person that manufactures an industrial hemp extract in Virginia and introduces that industrial hemp extract into commerce shall first be inspected by the department for compliance with the requirements in 2VAC5-595-50.

B. To apply for an inspection to manufacture an industrial hemp extract or to introduce an industrial hemp extract into commerce, a person must:

1. Submit an application on a form provided by the commissioner; and

2. Provide documentation of an unexpired Industrial Hemp Processor Registration issued pursuant to subsection A of § 3.2-4115 of the Code of Virginia.

2VAC5-595-40. General requirements.

A. A manufacturer shall produce an industrial hemp extract in compliance with Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia and Regulations Pertaining to Food for Human Consumption (2VAC5-600), including 21 CFR Part 117.

B. Notwithstanding subsection A of this section, a manufacturer shall produce an industrial hemp extract or food containing an industrial hemp extract in compliance with 21 CFR Part 111 if the industrial hemp extract or food containing an industrial hemp extract is:

1. Produced in a tablet, capsule, powder, softgel, or gel cap form;

2. Labeled with a panel titled "Supplement Facts"; or

3. Labeled with a statement that describes the role of a nutrient or ingredient intended to affect the structure or function in humans or that characterizes the documented mechanism by which a nutrient or ingredient acts to maintain such structure or function.

C. The manufacture or sale of food that contains an industrial hemp extract is not eligible for the exemption from inspection provided in § 3.2-5130 of the Code of Virginia.

D. A person offering for sale a food containing an industrial hemp extract shall obtain the industrial hemp extract from an approved source.

2VAC5-595-50. Laboratory testing required for contaminants and phytochemicals of an industrial hemp extract or a food containing an industrial hemp extract.

A. If an industrial hemp extract is used as an ingredient in a food and that industrial hemp extract was produced by a manufacturer that is an approved source pursuant to § 3.2-5145.3 of the Code of Virginia, that food containing an industrial hemp extract is not subject to the testing requirements prescribed in this section. However, a food containing an industrial hemp extract that contains any

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contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section is adulterated.

B. A manufacturer of an industrial hemp extract shall submit for laboratory analysis a sample from each batch of industrial hemp extract the manufacturer produces. Such laboratory analysis shall only be performed by a laboratory that meets the requirements prescribed in subsection E of this section.

C. A batch whose sample contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section is adulterated. A manufacturer of an industrial hemp extract may not offer for sale or sell any industrial hemp extract from a batch whose sample contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this section.

D. A manufacturer of an industrial hemp extract may not offer for sale or sell any industrial hemp extract from a batch whose sample does not contain the cannabinoid or phytochemical concentration claimed on the label for the industrial hemp extract.

E. The laboratory analysis required in subsection B of this section shall be performed by a laboratory that:

1. Has no direct or indirect financial interest in a manufacturer of an industrial hemp extract or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of an industrial hemp extract or product containing an industrial hemp extract. Additionally, no person with a direct or indirect financial interest in the laboratory shall have a direct or indirect financial interest in a manufacturer of an industrial hemp extract or in any other entity that may benefit from the production, manufacture, sale, purchase, or use of an industrial hemp extract or product containing an industrial hemp extract.

2. Employs at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience.

F. The microbiological content in a sample from a batch of industrial hemp extract shall not exceed the following acceptable criteria:

<u>Microbiological</u>	<u>Acceptable criteria</u>
<u>Total Aerobic Microbial Count</u>	<u>< 1,000 cfu/g or cfu/ml</u>
<u>Total Combined Yeast and Mold Count</u>	<u>< 100 cfu/g or cfu/ml</u>
<u>Escherichia coli</u>	<u>Absent in 1 g or 1 ml</u>

G. The mycotoxin content in a sample from a batch of industrial hemp extract shall not exceed the following acceptable criteria:

<u>Mycotoxin</u>	<u>Acceptable criteria</u>
<u>Aflatoxin (total)</u>	<u>< 20 ppb (20 ug/kg)</u>
<u>Ochratoxin A</u>	<u>< 20 ppb (20 ug/kg)</u>

H. The heavy metal content in a sample from a batch of industrial hemp extract shall not exceed the following acceptable criteria:

<u>Heavy metal</u>	<u>Acceptable criteria</u>
<u>Arsenic</u>	<u>< 10 ppm</u>
<u>Cadmium</u>	<u>< 4.1 ppm</u>
<u>Lead</u>	<u>< 10 ppm</u>
<u>Mercury</u>	<u>< 2 ppm</u>

I. The residual solvent content in a sample from a batch of industrial hemp extract shall not exceed the following acceptable criteria:

<u>Residual solvent</u>	<u>Acceptable criteria</u>
<u>1,2-Dichloroethene</u>	<u>5 ppm</u>
<u>1,1-Dichloroethene</u>	<u>8 ppm</u>
<u>Acetone</u>	<u>5,000 ppm</u>
<u>Acetonitrile</u>	<u>410 ppm</u>
<u>Benzene</u>	<u>2 ppm</u>
<u>Butane</u>	<u>2,000 ppm</u>
<u>Chloroform</u>	<u>60 ppm</u>
<u>Ethanol</u>	<u>5,000 ppm</u>
<u>Ethyl Acetate</u>	<u>5,000 ppm</u>
<u>Ethyl Ether</u>	<u>5,000 ppm</u>
<u>Ethylene Oxide</u>	<u>5 ppm</u>
<u>Heptane</u>	<u>5,000 ppm</u>
<u>Hexane</u>	<u>290 ppm</u>
<u>Isopropyl Alcohol</u>	<u>500 ppm</u>
<u>Methanol</u>	<u>3,000 ppm</u>
<u>Methylene Chloride</u>	<u>600 ppm</u>
<u>Pentane</u>	<u>5,000 ppm</u>
<u>Propane</u>	<u>2,100 ppm</u>
<u>Toluene</u>	<u>890 ppm</u>

<u>Trichloroethylene (1,1,2-Trichloroethene)</u>	<u>80 ppm</u>
<u>Xylenes, Total (ortho-, meta-, para-)</u>	<u>2,170 ppm</u>

J. Any pesticide applied to industrial hemp or during the processing of industrial hemp must be done so in accordance with the label of that pesticide and in compliance with the Virginia Pesticide Control Act (§ 3.2-3900 et seq. of the Code of Virginia) and regulations adopted thereunder. For at least three years, the manufacturer of an industrial hemp extract shall maintain pesticide application records for the industrial hemp from which it produces the industrial hemp extract.

K. The pesticide chemical residue content in a sample from a batch of industrial hemp extract shall not exceed the most stringent tolerance for a pesticide chemical residue in any food item as set forth by the U.S. Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food in 40 CFR Part 180, Subpart C. Pesticide chemical residue testing shall include testing for carbamates, organochlorines, and organophosphates.

L. The total delta-9 tetrahydrocannabinol concentration of a sample from a batch of industrial hemp extract shall not exceed 0.3%.

M. If a manufacturer labels an industrial hemp extract as having any amount of a cannabinoid, a sample from a batch of the industrial hemp extract shall be tested and shall have the claimed amount of the cannabinoid. If a manufacturer labels an industrial hemp extract as having any amount of phytochemical, including a terpene or flavonoid, a sample from a batch of the industrial hemp extract shall be tested and shall have the claimed amount of the phytochemical.

N. If batch testing of industrial hemp extracts from industrial hemp grown in a specific production field consistently shows that levels of contaminants do not exceed the limits established in this chapter, the frequency of batch testing by the manufacturer may be adjusted after consultation with the department. The manufacturer shall retain documentation of the reasoning for adjustment of batch testing frequency and the recommendation of the department and make such available to the department on request.

O. The manufacturer shall maintain industrial hemp extract testing records for at least three years.

2VAC5-595-60. Labeling of industrial hemp extracts and foods containing an industrial hemp extract.

A. For the purpose of this chapter, label or labeling includes the label on the packaging of an industrial hemp extract or food containing an industrial hemp extract as well as any brochure, advertisement, information on social media or on any website, or any other form of product marketing.

B. An industrial hemp extract or food containing an industrial hemp extract shall be labeled in accordance with 21 CFR Part 101 and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia.

C. Notwithstanding subsection B of this section, a manufacturer shall label an industrial hemp extract or food containing an industrial hemp extract in compliance with the labeling provisions for dietary supplements in 21 CFR Part 101 and Chapter 51 (§ 3.2-5100 et seq.) of Title 3.2 of the Code of Virginia if the industrial hemp extract or food containing an industrial hemp extract is:

1. Produced in a tablet, capsule, powder, softgel, or gel cap form;
2. Labeled with a panel titled "Supplement Facts"; or
3. Labeled with a statement that describes the role of a nutrient or ingredient intended to affect the structure or function in humans or that characterizes the documented mechanism by which a nutrient or ingredient acts to maintain such structure or function.

D. If a manufacturer labels an industrial hemp extract or food containing an industrial hemp extract as containing a specific cannabinoid or concentration thereof, the number of milligrams of each cannabinoid must be declared on the product label. The manufacturer must make and maintain records verifying the declared amount of cannabinoid. Such records may include a recipes, formulation, or batch record.

E. The label of an industrial hemp extract or food containing an industrial hemp extract shall not contain a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease, which shall render the product a drug, as that term is defined in 21 USC § 321(g)(1). An industrial hemp extract or food containing an industrial hemp extract with a label that contains a claim indicating the product is intended for diagnosis, cure, mitigation, treatment, or prevention of disease is not a food and shall be considered misbranded.

F. A manufacturer shall identify each batch of an industrial hemp extract or a food containing an industrial hemp extract with a unique code for traceability. Julian date coding or any other system developed and documented by the manufacturer for assigning a unique code to a batch may be used. The batch identification shall appear and be legible on the industrial hemp extract label.

G. The label of an industrial hemp extract or a food containing an industrial hemp extract shall include a statement that the product contains a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% or shall state the specific total delta-9-tetrahydrocannabinol concentration of the product.

Regulations

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

FORMS (2VAC5-595)

[Application for Manufacturer of an Industrial Hemp-Derived Extract Intended for Human Consumption, ODF-FSP-10595 \(eff. 12/2020\)](#)

VA.R. Doc. No. R22-6441; Filed October 20, 2021, 9:21 a.m.

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL AUTHORITY

Final Regulation

REGISTRAR'S NOTICE: The Board of Directors of the Alcoholic Beverage Control Authority 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 board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **3VAC5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers (amending 3VAC5-10-300).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Effective Date: December 8, 2021.

Agency Contact: LaTonya D. Hucks-Watkins, Senior Legal Counsel, Alcoholic Beverage Control Authority, 2901 Hermitage Road, Richmond, VA 23220, telephone (804) 213-4698, FAX (804) 213-4574, or email latonya.hucks-watkins@virginiaabc.com.

Summary:

The amendment updates the agency address to 7450 Freight Way, Mechanicsville, Virginia 23116, where board hearings will be held unless noticed to the contrary.

3VAC5-10-300. Hearings.

Hearings before the board in the absence of notice to the contrary will be held in the office of the board, Virginia A.B.C. Building, ~~2901 Hermitage Road, Richmond~~ 7450 Freight Way, Mechanicsville, Virginia 23116.

VA.R. Doc. No. R22-6994; Filed October 7, 2021, 3:34 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Proposed Regulation

REGISTRAR'S NOTICE: The State Water Control Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 8 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01 of the Code of Virginia; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03 of the Code of Virginia; and (iv) conducts at least one public hearing on the proposed general permit. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC25-194. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Vehicle Wash Facilities and Laundry Facilities (amending 9VAC25-194-10, 9VAC25-194-15, 9VAC25-194-40 through 9VAC25-194-70).**

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

Public Hearing Information:

December 10, 2021 - 3 p.m. - Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060

Public Comment Deadline: January 7, 2022.

Agency Contact: Elleanore Daub, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4111, FAX (804) 698-4178, or email elleanore.daub@deq.virginia.gov.

Summary:

The existing general permit expires on October 15, 2022, and must be reissued to cover existing and new vehicle wash and laundry discharges. The proposed amendments update definitions, add 5,000 gallons per day as a limit for vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day, change the registration deadline to 60 days to be consistent with other general permits due dates and allow for a later date as established by the board, update operations and

maintenance manual requirements, and add a requirement to submit electronic registration forms and discharge monitoring reports when these are made available by the department.

9VAC25-194-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law and 9VAC25-31 (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Construction equipment" means trenchers, backhoes, boring equipment, bulldozers, loaders, dump trucks, and any other piece of earth moving equipment.

~~"Department" or "DEQ" means the Department of Environmental Quality.~~

"Golf course equipment" means carts, utility vehicles, bunker rakes, groomers, seeders, and other turf equipment but does not mean equipment used in fertilizer, pesticide, or herbicide application.

"Inlet protection measures" means equipment and best management practices to minimize pollution to state waters via the storm drain. Equipment includes containment berms, barriers, or seals designed to prevent water from entering the inlet, weighted filters, or socks designed to remove metals, oil and grease, solids, and debris combined with other measures, including vacuuming of wastewater, shut off hose nozzles, washing, or directing wastewater to grassy areas.

"Laundry" means any self-service facility where the washing of clothes is conducted as designated by NAICS Code 812310 and SIC 7215. It does not include facilities that engage in dry cleaning.

~~"Maintenance equipment" means street sweepers and catch basin cleaner trucks.~~

"Lawn maintenance equipment" means motorized or hand operated lawn care equipment, including mowers, hedgers, aerators, augers, blowers, brush clearers, brush cutters, dethatchers, edgers, pole saws, power rakes, and tillers, but does not mean equipment used in fertilizer, pesticide, or herbicide application.

"NAICS" means North American Industry Classification System from the U.S. Office of Management and Budget, 2017 edition.

"SIC" means the Standard Industrial Classification from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 edition.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes

wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

"Vehicle maintenance" means vehicle and equipment rehabilitation, mechanical repairs, painting, fueling, and lubrication.

"Vehicle wash" means any fixed or mobile facility where the manual, automatic, or self-service exterior washing of vehicles is conducted and includes the following:

1. Vehicles that convey passengers or goods on streets or highways ~~as designated by Standard Industrial Classification (SIC) Code 7542,~~ such as automobiles, trucks, motor homes, buses, motorcycles, ambulances, fire trucks, and tractor trailers. This industry primarily comprises establishments primarily engaged in cleaning, washing, or waxing automotive vehicles, such as passenger cars, trucks, and vans, and trailers as designated by NAICS Code 811192 and Standard Industrial Classification (SIC) Code 7542;
2. Incidental floor cleaning wash waters associated with facilities that wash vehicles where the floor wash water also passes through the vehicle wash treatment system;
3. Golf course equipment and lawn maintenance equipment;
4. Maintenance and construction equipment; ~~and~~
5. Street sweepers and catch basin cleaner trucks; and
6. Recreational boats less than 8.6' beam and 25' in length towed by a vehicle.

"Vehicle wash" does not mean engine cleaning or degreasing; the cleaning of floors in vehicle maintenance areas, cleaning of the interior of tanks or trailers carrying bulk or raw material, cleaning of equipment used in the paving industry, cleaning of chemical, fertilizer, or pesticide spreading equipment, or cleaning of tanker trucks, garbage trucks, livestock trailers, trains, boats larger than 8.6' beam and 25' in length, or aircraft; or the use of acid caustic metal brighteners or steam heated water.

9VAC25-194-15. Applicability of incorporated references based on the dates that they became effective.

Except as noted, when a regulation of the U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced or adopted in this chapter and incorporated by reference, that regulation shall be as it exists and has been published as of July 1, ~~2017~~ 2021.

9VAC25-194-40. Effective date of the permit.

This general permit will become effective on ~~October 16, 2017~~ January 1, 2023. This general permit will expire on ~~October 15, 2022~~ December 31, 2027. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-194-50.

Regulations

9VAC25-194-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge wastewater as described in 9VAC25-194-20 to surface waters of the Commonwealth of Virginia provided that:

1. The owner files a registration statement in accordance with 9VAC25-194-60, and that registration statement is accepted by the board;
2. The owner submits the required permit fee;
3. The owner complies with the applicable effluent limitations and other requirements of 9VAC25-194-70; and
4. The owner has not been notified by the board that the discharge is not eligible for coverage under this permit in accordance with subsection B of this section.

B. The board will notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following:

1. The owner is required to obtain an individual permit in accordance with 9VAC25-31-170 B 3 of the VPDES Permit Regulation;
2. The owner is proposing to discharge to state waters specifically named in other board regulations that prohibit such discharges;
3. The discharge would violate the antidegradation policy in the Water Quality Standards at 9VAC25-260-30;
4. The discharge is not consistent with the assumptions and requirements of an approved TMDL; or
5. The discharge is to surface waters where there are central wastewater treatment facilities reasonably available, as determined by the board.

C. Mobile vehicle wash owners shall operate such that there is no discharge to surface waters and storm sewers unless they have coverage under this permit.

D. Compliance with this general permit constitutes compliance, for purposes of enforcement, with §§ 301, 302, 306, 307, 318, 403, and 405(a) through (b) of the federal Clean Water Act and the State Water Control Law with the exceptions stated in 9VAC25-31-60 of the VPDES Permit Regulation. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other applicable federal, state, or local statute, ordinance, or regulation.

E. Continuation of permit coverage.

1. ~~Any owner that was authorized to discharge under the car wash facilities general permit issued in 2012, and that submits a complete registration statement on or before October 16, 2017, is authorized to continue to discharge under the terms of the 2012 general permit~~ Permit coverage

shall expire at the end of the applicable permit term. However, expiring permit coverages are automatically continued if the owner has submitted a complete registration statement at least 60 days prior to the expiration date of the permit or a later submittal date established by the board, which cannot extend beyond the expiration date of the permit. The permittee is authorized to continue to discharge until such time as the board either:

- a. Issues coverage to the owner under this general permit; or
- b. Notifies the owner that the discharge is not eligible for coverage under this permit.

2. When the owner that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following:

- a. Initiate enforcement action based upon the ~~2012~~ general permit coverage that has been continued;
- b. Issue a notice of intent to deny coverage under the ~~reissued amended~~ general permit. If the general permit coverage is denied, the owner would then be required to cease the discharges authorized by ~~coverage under the 2012~~ the continued general permit coverage or be subject to enforcement action for discharging without a permit;
- c. Issue an individual permit with appropriate conditions; or
- d. Take other actions authorized by the VPDES Permit Regulation (9VAC25-31).

9VAC25-194-60. Registration statement.

A. Deadlines for submitting registration statements. Any owner seeking coverage under this general permit shall submit a complete VPDES general permit registration statement in accordance with this ~~section~~ chapter, which shall serve as a notice of intent for coverage under the ~~general~~ VPDES general permit regulation for vehicle wash facilities and laundry facilities.

1. New facilities. Any owner proposing a new discharge shall submit a complete registration statement at least ~~30~~ 60 days prior to the date planned for commencement of the discharge or a later submittal established by the board.

2. Existing facilities.

- a. Any owner covered by an individual VPDES permit that is proposing to be covered by this general permit shall submit a complete registration statement at least 240 days prior to the expiration date of the individual VPDES permit or a later submittal established by the board.
- b. Any owner that was authorized to discharge under ~~the general~~ an expiring or expired VPDES general permit for vehicle wash facilities (9VAC25-194) ~~that became effective on October 16, 2012, and laundry facilities~~ and that intends to continue coverage under this general permit

shall submit a complete registration statement to the board ~~prior to September 15, 2017~~ at least 60 days prior to the expiration date of the existing permit or a later submittal established by the board.

c. Any owner of a vehicle wash facility covered under this permit that had a monthly average flow rate of less than 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of 5,000 gallons per day, shall submit an amended registration statement within ~~30~~ 60 days of the increased flow or a later submittal established by the board.

B. Late registration statements. Registration statements for existing facilities covered under subdivision A 2 b of this section will be accepted after ~~October 15, 2017~~ the expiration date of the permit, but authorization to discharge will not be retroactive. ~~Owners described in subdivision A 2 b of this section that submit registration statements after September 15, 2017, are authorized to discharge under the provisions of 9VAC25-194-50 E if a complete registration statement is submitted before October 16, 2017.~~

C. The required registration statement shall contain the following information:

1. Facility name and mailing address, owner name and mailing address, telephone number, and email address (if available);
2. Facility street address (if different from mailing address);
3. Facility operator (local contact) name, address, telephone number, and email address (if available) if different than owner;
4. ~~Does~~ Whether the facility ~~discharge~~ discharges to surface waters? If "yes," name of receiving stream; if "no," describe the discharge;
5. ~~Does~~ Whether the facility ~~discharge~~ discharges to a municipal separate storm sewer system (MS4)? If "yes," the facility owner must provide the name of the MS4 and notify the owner of the municipal separate storm sewer system of the existence of the discharge at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person ~~and~~, phone number, email, the location of the discharge, the nature of the discharge, and the facility's VPDES general permit number;
6. ~~Does~~ Whether the facility ~~have~~ has a current VPDES ~~Permit?~~ permit. If "yes," provide permit number;
7. ~~Does your~~ Whether the locality ~~require~~ requires connection to central wastewater treatment facilities?;
8. ~~Are~~ Whether central wastewater treatment facilities are available to serve the site? If "yes," the option of

discharging to the central wastewater facility must be evaluated and the result of that evaluation reported here;

9. A USGS 7.5 minute topographic map or equivalent computer generated map showing the facility discharge ~~location(s)~~ locations, latitude and longitude, and receiving stream;

10. Provide a brief description of the type of washing activity. Include (as applicable) the type of vehicles washed, number of vehicle washing bays, and the number of laundry machines;

11. Highest average monthly flow rate for each washing activity or combined washing activity, reported as gallons per day;

12. Facility line (water balance) drawing;

13. Description of wastewater treatment or stormwater inlet protection measures;

14. Information on use of chemicals at the facility. Include detergents, soaps, waxes, and other chemicals;

15. ~~Will~~ Whether detergent used for washing vehicles ~~contain~~ contains more than 0.5% phosphorus by weight; ~~and~~

16. State Corporation Commission entity identification number if the facility is required to obtain an entity identification number by law; and

17. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with 9VAC25-31-110 of the VPDES Permit Regulation.

D. The registration statement shall be delivered by either postal or electronic mail to the DEQ regional office serving the area where the facility is located. Following notification from the department of the start date for the required electronic submission of Notices of Intent to discharge forms (i.e., registration statements) as provided for in 9VAC25-31-1020, such forms submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms must be submitted electronically.

Regulations

9VAC25-194-70. General permit.

Any owner whose registration statement is accepted by the board shall comply with the requirements of the general permit and be subject to all requirements of 9VAC25-31-170 of the VPDES Permit Regulation.

General Permit No.: VAG75

Effective Date: ~~October 16, 2017~~ January 1, 2023

Expiration Date: ~~October 15, 2022~~ December 31, 2027

GENERAL PERMIT FOR VEHICLE WASH FACILITIES AND LAUNDRY FACILITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of vehicle wash facilities and laundry facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations ~~which that~~ prohibit such discharges.

The authorized discharge shall be in accordance with the information submitted with the registration statement, this cover page, Part I - Effluent Limitations, Monitoring Requirements, ~~and~~ Special Conditions; and Part II - Conditions Applicable to All VPDES Permits, as set forth in this general permit.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from vehicle wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency ⁽³⁾	Sample Type
Flow (GPD)	NA	NL 5,000	1/Year	Estimate
pH (S.U.)	6.0 ⁽¹⁾	9.0 ⁽¹⁾	1/Year	Grab
TSS (mg/l)	NA	60 ⁽²⁾	1/Year	Composite ⁽⁴⁾
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

⁽¹⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

⁽²⁾Limit given is expressed in two significant figures.

⁽³⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January of each year.

⁽⁴⁾Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

2. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from vehicle wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency ⁽³⁾	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	6.0 ⁽¹⁾	9.0 ⁽¹⁾	1/6 Months	Grab
TSS (mg/l)	NA	60 ⁽²⁾	1/6 Months	Composite ⁽⁴⁾
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only
 NA - Not applicable
⁽¹⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.
⁽²⁾Limit given is expressed in two significant figures.
⁽³⁾Samples shall be collected by December 31 and June 30 of each year and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by January 10 and July 10 of each year.
⁽⁴⁾Five grab samples evenly spaced over an eight-hour period or five grab samples evenly spaced for the duration of the discharge if less than eight hours in length.

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

3. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a laundry facility from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency ⁽³⁾	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0 ⁽¹⁾	9.0 ⁽¹⁾	1/Quarter	Grab
TSS (mg/l)	NA	60 ⁽²⁾	1/Quarter	Grab
BOD ₅ (mg/l)	NA	60 ^{(1),(2)}	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0 ⁽¹⁾	NA	1/Quarter	Grab
Temperature °C	NA	32 ^{(1),(4)}	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 ⁽¹⁾	1/Quarter	Grab
E. Coli ⁽⁵⁾	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci ⁽⁶⁾	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform ⁽⁷⁾	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only
 NA - Not applicable
 CFU – Colony forming units

Regulations

⁽¹⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD₅, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.

⁽²⁾Limit given is expressed in two significant figures.

⁽³⁾Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.

⁽⁴⁾The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

⁽⁵⁾Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).

⁽⁶⁾Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).

⁽⁷⁾Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).

Part I

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from a combined vehicle wash and laundry facility from outfalls:

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency ⁽³⁾	Sample Type
Flow (GPD)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0 ⁽¹⁾	9.0 ⁽¹⁾	1/Quarter	Grab
TSS (mg/l)	NA	60 ⁽²⁾	1/Quarter	5G/8HC
BOD ₅ (mg/l)	NA	60 ^{(1),(2)}	1/Quarter	Grab
Oil and Grease	NA	15	1/6 Months	Grab
Dissolved Oxygen (mg/l)	6.0 ⁽¹⁾	NA	1/Quarter	Grab
Temperature °C	NA	32 ^{(1),(4)}	1/6 Months	Immersion Stabilization
Total Residual Chlorine (mg/l)	NA	.011 ⁽¹⁾	1/Quarter	Grab
E. Coli ⁽⁵⁾	NA	235 CFU/100 ml	1/6 Months	Grab
Enterococci ⁽⁶⁾	NA	104 CFU/100 ml	1/6 Months	Grab
Fecal Coliform ⁽⁷⁾	NA	200 CFU/100 ml	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

CFU – Colony forming units

- (1) Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, BOD₅, DO, TRC and temperature in waters receiving the discharge, those standards shall be, as appropriate, the maximum and minimum effluent limitations.
- (2) Limit given is expressed in two significant figures.
- (3) Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January. Reports of once per six months shall be submitted no later than the 10th day of January and the 10th day of July for samples collected by December 31 and June 30 of each year.
- (4) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.
- (5) Applies only when the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).
- (6) Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations).
- (7) Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters).

B. Special conditions.

- 1. The permittee of a vehicle wash facility shall perform visual examinations of the effluent including sheens, floating solids, or visible foam and maintenance of the wastewater treatment facilities and inlet protection measures, if applicable, at least once per week and document this visual examination and maintenance activities in the operational log. This operational log shall include the examination date and time, examination personnel, presence of a discharge, and the visual quality of the discharge ~~and~~. The operational log shall be made available for review by the department personnel upon request.
- 2. The effluent shall be free of sheens. There shall be no discharge of floating solids or visible foam in other than trace amounts.
- 3. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.
- 4. There shall be no chemicals added to the water or waste ~~which~~ that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical is granted by the board.
- 5. Wastewater should be reused or recycled whenever feasible.
- 6. The permittee of a vehicle wash facility shall comply with the following solids management plan, where applicable:

a. ~~All~~ Any settling basins or oil water separators shall be cleaned frequently in order in accordance with the schedule outlined in the operation and maintenance (O&M) manual and at a frequent enough interval to achieve effective treatment.

b. ~~All~~ Any solids from settling basins, oil water separators, trash, or other debris shall be handled, stored, and disposed of so as to prevent a discharge to state waters of such solids.

7. Washing of vehicles or containers bearing residue of animal manure or toxic chemicals (fertilizers, organic chemicals, etc.) is prohibited. If the facility is a self-service operation, the permittee shall post this prohibition on a sign prominently located and of sufficient size to be easily read by all patrons.

8. If the facility has a vehicle wash discharge with a monthly average flow rate of less than 5,000 gallons per day, and the flow rate increases above a monthly average flow rate of 5,000 gallons per day, an amended registration statement shall be filed within 30 days of the increased flow.

9. A permittee submitting a registration statement in accordance with Part II M and discharging into a municipal separate storm sewer shall notify the owner of the municipal separate storm sewer system of the existence of the discharge at the time of registration under this permit and include that notification with the registration statement. The notice shall include the following information: the name of the facility, a contact person and contact information (phone number and email), the location of the discharge, the nature

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of the discharge, and the facility's VPDES general permit number, if known or existing.

10. Approval for coverage under this general permit does not relieve any owner of the responsibility to comply with any other federal, state, or local statute, ordinance, or regulation.

11. The owner of a facility discharging vehicle wash water directly to a stormwater drain shall provide inlet protection measures in addition to meeting all other requirements of the permit.

12. The permittee shall notify the department as soon as the permittee knows or has reason to believe:

a. That any activity has occurred or will occur that would result in the discharge, on a routine or frequent basis, of any toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter of the toxic pollutant;

(2) Two hundred micrograms per liter for acrolein and acrylonitrile; five hundred micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur that would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant that is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter of the toxic pollutant;

(2) One milligram per liter for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

13. Operation and maintenance manual requirement. The permittee shall develop and maintain an accurate operation and maintenance (O&M) manual for the wastewater treatment works and applicable inlet protection measures, ~~if applicable~~. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The permittee shall operate and maintain the treatment works and the inlet protection measures in accordance with the O&M manual. The O&M manual shall be reviewed and updated at least annually and shall be signed and certified in accordance with Part II K of this permit. The O&M manual shall be made available for review by the department personnel upon request. The O&M manual shall include, ~~but not necessarily be limited to~~, the following items, as appropriate:

a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;

b. ~~Discussion of best management practices or stormwater inlet protection methods~~ Stormwater inlet protection measure directions for use and maintenance of equipment;

c. Best management practices employed;

d. Treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory, and recordkeeping;

~~d. e.~~ A sludge/solids management plan, including the schedule for settling basin or oil water separator cleaning and solids handling as required by Part I B 6;

e. f. Procedures for performing the visual examination and maintenance required by Part I B 1 including example log sheets and the location of the operational log; and

f. g. Date when the O&M manual was updated or reviewed and any changes that were made.

14. Compliance reporting under Part I A 1 through 4.

a. The quantification levels (QL) shall be as follows:

Effluent Characteristic	Quantification Level
BOD ₅	2 mg/l
TSS	1.0 mg/l
Oil and Grease	5.0 mg/l
Chlorine	0.10 mg/l

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the test method.

b. Reporting. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision 14 a of this subsection. Otherwise, the numerical value shall be reported. The QL must be less than or equal to the QL in subdivision 14 a of this subsection.

c. Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., five always rounding up or to the nearest even number), the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

15. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards in 9VAC25-260.

16. Discharges to waters with an approved total maximum daily load (TMDL). Owners of facilities that are a source of the specified pollutant of concern to waters where an approved TMDL has been established shall implement measures and controls that are consistent with the assumptions and requirements of the TMDL.

17. Notice of termination.

a. The owner may terminate coverage under this general permit by filing a complete notice of termination with the department. The notice of termination may be filed after one or more of the following conditions have been met:

(1) Operations have ceased at the facility and there are no longer wastewater discharges from vehicle wash or laundry activities from the facility;

(2) A new owner has assumed responsibility for the facility. A notice of termination does not have to be submitted if a VPDES Change of Ownership Agreement form has been submitted;

(3) All discharges associated with this facility have been covered by a VPDES individual permit or an alternative VPDES permit; or

(4) Termination of coverage is requested for another reason provided the board agrees that coverage under this general permit is no longer needed.

b. The notice of termination shall contain the following information:

(1) Owner's name, mailing address, telephone number, and email address (if available);

(2) Facility name and location;

(3) VPDES vehicle wash facilities and laundry facilities general permit number; and

(4) The basis for submitting the notice of termination, including:

(a) A statement indicating that a new owner has assumed responsibility for the facility;

(b) A statement indicating that operations have ceased at the facility and there are no longer wastewater discharges from vehicle wash or laundry activities from the facility;

(c) A statement indicating that all wastewater discharges from vehicle wash facilities and laundry facilities have been covered by an individual VPDES permit; or

(d) A statement indicating that termination of coverage is being requested for another reason (state the reason).

c. The following certification:

"I certify under penalty of law that all wastewater discharges from vehicle wash or laundry facilities from the identified facility that are authorized by this VPDES general permit have been eliminated, or covered under a VPDES individual or alternative permit, or that I am no longer the owner of the industrial activity, or permit coverage should be terminated for another reason listed above. I understand that by submitting this notice of termination, that I am no longer authorized to discharge wastewater from vehicle wash facilities or laundry facilities in accordance with the general permit, and that discharging pollutants in wastewater from vehicle wash facilities or laundry facilities to surface waters is unlawful

where the discharge is not authorized by a VPDES permit. I also understand that the submittal of this notice of termination does not release an owner from liability for any violations of this permit or the Clean Water Act."

d. The notice of termination shall be signed in accordance with Part II K.

e. The notice of termination shall be submitted to the DEQ regional office serving the area where the vehicle wash or laundry facility is located.

Part II

CONDITIONS APPLICABLE TO ALL VPDES PERMITS

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

4. Samples taken as required by this permit shall be analyzed in accordance with 1VAC30-45, Certification for Noncommercial Environmental Laboratories, or 1VAC30-46, Accreditation for Commercial Environmental Laboratories.

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individuals who performed the sampling or measurements;

c. The dates and times analyses were performed;

d. The individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course

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of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department. Following notification from the department of the start date for the required electronic submission of monitoring reports, as provided for in 9VAC25-31-1020, such forms and reports submitted after that date shall be electronically submitted to the department in compliance with this section and 9VAC25-31-1020. There shall be at least three months' notice provided between the notification from the department and the date after which such forms and reports must be submitted electronically.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations ~~which that~~ require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information ~~which that~~ the board may request to determine whether cause exists for terminating coverage under this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from ~~his~~ the permittee's discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately (see Part II I 4) upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge, including a bypass or upset, should occur from a treatment works, and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify (see Part II I 4), in no case later than 24 hours, the department ~~by telephone~~ after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall submit the report to the department in writing within five days of discovery of the discharge in accordance with Part II I 2.

Unusual and extraordinary discharges include any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance ~~which that~~ may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information ~~which that~~ shall be reported within 24 hours under this subsection:
 - a. Any unanticipated bypass; and
 - b. Any upset which causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under ~~Parts~~ Part II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: 4. The immediate (within 24 hours) reports required in Part II G, H, and I may be made to the department's regional office. Reports may be made by telephone, FAX, or online at <http://www.deq.virginia.gov/Programs/PollutionResponsePreparedness/MakingaReport.aspx> or <https://www.deq.virginia.gov/get-involved/pollution-response>. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

5. Where the permittee becomes aware that it failed to submit any relevant facts in a permit registration statement

or in any report to the department, it shall promptly submit such facts or information.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act ~~which that~~ are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants ~~which that~~ are subject neither to effluent limitations nor to notification requirements specified ~~elsewhere in this permit~~ in Part I B 12; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit registration process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating

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and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit registration requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reporting requirements. All reports required by permits and other information requested by the board shall be signed by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge

and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action, for permit coverage termination, or for denial of a permit coverage renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants ~~and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act~~ within the time provided in the regulations that establish these standards or prohibitions ~~or standards for sewage sludge use or disposal~~, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least ~~30~~ 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U) and "upset" (Part II V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances)

~~which that~~ are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges, or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit ~~which that~~ has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. The permittee may allow any bypass to occur ~~which that~~ does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and U 3.

2. Notice.

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

- a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass ~~which that~~ occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the causes of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part II I; and
- d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative (including an authorized contractor acting as a representative of the administrator), upon presentation of credentials and other documents as may be required by law to:

- 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

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X. Permit actions. Permit coverage may be terminated for cause. The filing of a request by the permittee for a permit coverage termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permit coverage. ~~Permits are~~

1. Permit coverage is not transferable to any person except after notice to the department.

2. Coverage under this permit may be automatically transferred to a new permittee if:

~~1. a.~~ The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;

~~2. b.~~ The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

~~3. c.~~ The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable, and, if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

VA.R. Doc. No. R20-6442; Filed October 19, 2021, 11:58 a.m.

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TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

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: 10VAC5-200. Short-Term Lending (amending 10VAC5-200-10).

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

Public Hearing Information: A hearing will be scheduled upon request.

Public Comment Deadline: November 19, 2021.

Agency Contact: Dustin Physioc, Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 786-0831, or email dustin.physioc@scc.virginia.gov.

Summary:

The proposed amendment adds the definition of "business check" to mean a paper check, an electronic check, or an electronic funds transfer through the Automated Clearing House system.

AT RICHMOND, OCTOBER 12, 2021

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2021-00101

Ex Parte: In the Matter of Defining the Term "Business Check" in the Regulations Governing Short-Term Lending

ORDER TO TAKE NOTICE

Chapters 1215 and 1258 of the 2020 Virginia Acts of Assembly made extensive revisions to Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2 of the Code of Virginia ("Chapter 18") that became effective on January 1, 2021. Based on this legislation, the State Corporation Commission ("Commission") conducted a rulemaking proceeding and adopted amendments to its regulations governing short-term lending under Chapter 18, which are set forth in Chapter 200 of Title 10 of the Virginia Administrative Code ("Chapter 200").¹

The Commission has received inquiries regarding whether licensed short-term lenders who make loans over the Internet are allowed to disburse loan proceeds to borrowers by means of an electronic funds transfer through the Automated Clearing House ("ACH") system.² In order to clarify that disbursing loan proceeds in this manner is now permitted under Chapter 18, the Bureau of Financial Institutions ("Bureau") has proposed an amendment to 10 VAC 5-200-10 that would define the term "business check" for purposes of Chapter 18 and Chapter 200 to mean a paper check, an electronic check, or an electronic funds transfer through the ACH system.

NOW THE COMMISSION, having considered the Bureau's proposal, is of the opinion and finds that the proposed regulation should be considered for adoption.

Accordingly, IT IS ORDERED THAT:

(1) The proposed regulation is attached hereto and made a part hereof.

(2) Comments or requests for a hearing on the proposed regulation must be submitted in writing to the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before November 19, 2021. Requests for a hearing shall state why a hearing is necessary and why the issues cannot be

adequately addressed in written comments. All correspondence shall contain a reference to Case No. BFI-2021-00101. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments.

(3) This Order and the attached proposed regulation shall be made available on the Commission's website: scc.virginia.gov/pages/Case-Information.

(4) The Commission's Division of Information Resources shall provide a copy of this Order, including a copy of the attached proposed regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

A COPY of this Order and the attached proposed regulation shall be sent by the Clerk of the Commission to the Commission's Office of General Counsel and to the Commissioner of Financial Institutions, who shall send by e-mail or U.S. mail a copy of this Order and the attached proposed regulation to all licensees under Chapter 18 and such other interested persons as he may designate.

¹Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of Adopting Revisions to the Regulations Governing Licensees under Chapter 18 of Title 6.2 of the Code of Virginia. Case No. BFI-2020-00109, Order Adopting Regulations (July 12, 2021).

²Section 6.2-1816 (14) of the Code of Virginia states in pertinent part that "[I]oan proceeds shall be disbursed in cash or by the licensee's business check."

10VAC5-200-10. Definitions.

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

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

"Advertisement" means a commercial message in any medium that promotes, directly or indirectly, a short-term loan. This includes a communication sent to a consumer as part of a solicitation of business, but excludes messages on promotional items such as pens, pencils, notepads, hats, and calendars.

"Business check" for purposes of the Act and this chapter means a paper check, an electronic check, or an electronic funds transfer through the Automated Clearing House system.

"Business day" for purposes of the Act and this chapter means a day on which the licensee is able to make loans pursuant to the Act.

"Duplicate original" means an exact copy of a signed original, an exact copy with signatures created by the same impression as the original, or an exact copy bearing an original signature.

"Good funds instrument" for purposes of the Act and this chapter means a certified check, cashier's check, money order

or, if the licensee is equipped to handle such payments, payment effected by use of a credit card, prepaid card, debit card, or the Automated Clearing House system.

"Liquid assets" for purposes of the Act and this chapter means funds held in a checking account or savings account at a depository institution, money market funds, commercial paper, and treasury bills.

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

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

"Payday loan" means a loan made pursuant to the Act and this chapter prior to January 1, 2021.

"Prepaid card" means a card with a network logo (e.g., Visa, MasterCard, American Express, or Discover) that is used by a cardholder to access money that has been loaded onto the card in advance.

B. Other terms used in this chapter shall have the meanings set forth in § 6.2-100 or 6.2-1800 of the Code of Virginia.

V.A.R. Doc. No. R22-7001; Filed October 12, 2021, 2:35 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR CONTRACTORS

Final Regulation

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

Regulations

Title of Regulation: **18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-140, 18VAC50-22-170).**

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

Effective Date: December 8, 2021.

Agency Contact: Marjorie King, Administrator, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, TDD (804) 527-4290, or email contractors@dpor.virginia.gov.

Summary:

The amendments put in place a temporary reduction of renewal fees for contractor licenses in compliance with § 54.1-113 of the Code of Virginia.

18VAC50-22-140. Renewal fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable.

In the event that a check, money draft, or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department:

Fee Type	When Due	Amount Due
Class C renewal	with renewal application	\$195
Class B renewal	with renewal application	\$225
Class A renewal	with renewal application	\$240
Residential Building Energy Analyst Firm renewal	with renewal application	\$195

The date on which the renewal fee is received by the Department of Professional and Occupational Regulation or its agent shall determine whether the licensee is eligible for renewal or must apply for reinstatement.

For renewal fees received on or before August 31, ~~2021~~ 2023, the fees shall be ~~\$165~~ \$130 for a Class C renewal, ~~\$195~~ \$160 for a Class B renewal, ~~and \$240~~ \$175 for a Class A renewal and \$130 for a Residential Building Energy Analyst Firm renewal.

18VAC50-22-170. Reinstatement fees.

Each check or money order should be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft, or

similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department:

Fee Type	When Due	Amount Due
Class C reinstatement	with reinstatement application	\$405*
Class B reinstatement	with reinstatement application	\$460*
Class A reinstatement	with reinstatement application	\$490*
Residential Building Energy Analyst Firm reinstatement	with reinstatement application	\$405*

*Includes renewal fee listed in 18VAC50-22-140.

The date on which the reinstatement fee is received by the Department of Professional and Occupational Regulation or its agent shall determine whether the licensee is eligible for reinstatement or must apply for a new license and meet the entry requirements in place at the time of that application. In order to ensure that licensees are qualified to practice as contractors, no reinstatement will be permitted once two years from the expiration date of the license have passed.

For reinstatement fees received on or before August 31, ~~2021~~ 2023, the fees shall be \$330 for Class C reinstatement, \$390 for Class B reinstatement, and \$420 for Class A reinstatement. These fees include the renewal fee listed in 18VAC50-22-140.

VA.R. Doc. No. R22-6964; Filed October 14, 2021, 9:28 a.m.

Final Regulation

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

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

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

Effective Date: December 8, 2021.

Agency Contact: Marjorie King, Administrator, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (866) 430-1033, TDD (804) 527-4290, or email contractors@dpor.virginia.gov.

Summary:

The amendments provide a temporary reduction in renewal and reinstatement fees for individual trade licenses and certifications in compliance with § 54.1-113 of the Code of Virginia.

18VAC50-30-120. Renewal.

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

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

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

D. Certified elevator mechanics and certified accessibility mechanics, as a condition of renewal or reinstatement and pursuant to § 54.1-1143 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to the provisions of the Virginia Uniform Statewide Building Code pertaining to elevators, escalators, and related conveyances. This continuing education will be from a provider approved by the board in accordance with the provisions of this chapter.

E. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129.1 B of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices

related to water well construction from a provider approved by the board in accordance with the provisions of this chapter.

F. Certified automatic fire sprinkler inspectors, as a condition of renewal and pursuant to § 54.1-1148 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to changes and knowledge of the Virginia Statewide Fire Prevention Code (13VAC5-51). No renewal will be permitted once 30 days from the expiration date have passed. After that date, the applicant must apply for a new certification and meet the current entry requirements.

G. Renewal fees are as follows:

Tradesman license	\$135
Liquefied petroleum gas fitter license	\$90
Natural gas fitter provider license	\$90
Backflow prevention device worker certification	\$90
Elevator mechanic certification	\$90
Certified accessibility mechanic	\$90
Certified automatic fire sprinkler inspector	\$90
Water well systems provider certification	\$90
Residential building energy analyst license	\$90

All fees are nonrefundable and shall not be prorated.

Tradesman license renewal fees received on or before August 31, ~~2021~~ 2023, shall be ~~\$115~~ \$90. For all other renewal fees received on or before August 31, ~~2021~~ 2023, the fee shall be ~~\$75~~ \$65.

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

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

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

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

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

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

18VAC50-30-130. Reinstatement.

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

B. Reinstatement fees are as follows:

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

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

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

Tradesman license reinstatement fees received on or before August 31, ~~2021~~ 2023, shall be ~~\$165~~ \$140. For all other reinstatement fees received on or before August 31, ~~2021~~ 2023, the fee shall be ~~\$125~~ \$115. This fee includes the renewal fee listed in 18VAC50-30-120.

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

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

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

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

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

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

VA.R. Doc. No. R22-7004; Filed October 14, 2021, 9:30 a.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

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

Titles of Regulations: 18VAC130-20. Real Estate Appraiser Board Rules and Regulations (amending 18VAC130-20-30).

18VAC130-30. Appraisal Management Company Regulations (amending 18VAC130-30-30, 18VAC130-30-150).

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Effective Date: December 8, 2021.

Agency Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4298, or email reappraisers@dpor.virginia.gov.

Summary:

Pursuant to Chapters 550 and 551 of the 2021 Acts of Assembly, Special Session I, the amendments conform regulations concerning qualifications for licensure and standards of conduct to the requirements of § 19.2-389.3 of the Code of Virginia and remove requirements for reporting by applicants or licensees of misdemeanor marijuana convictions.

18VAC130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.
2. The applicant shall meet the current educational and experience requirements and submit a license application to the Department of Professional and Occupational Regulation or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.
3. The applicant shall sign, as part of the application, a statement verifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.
4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.
5. The applicant shall possess a background that would not call into question the public trust. Each applicant shall submit to fingerprinting. A background investigation shall be conducted, which shall not reveal that ~~he~~ the applicant has been convicted, found guilty, or pled guilty or nolo

contendere to a crime that would call into question ~~his~~ the applicant's fitness or suitability to engage in the profession. The applicant must disclose the following:

- a. All felony convictions; and
- b. All misdemeanor convictions except marijuana convictions in any jurisdiction that occurred within five years of the date of application.

Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for purposes of this subdivision.

6. The applicant shall be at least 18 years old.
7. The applicant shall have successfully completed the following education:

- a. Licensed residential classification - 150 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The required core curriculum for the certified general or certified residential real estate appraiser is a bachelor's degree or higher from an accredited college or university. The classroom hours required for the licensed residential classification may include the classroom hours required for the appraiser trainee.

- b. Certified residential classification - 200 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours required for the certified residential classification may include the classroom hours required for the appraiser trainee or the licensed residential classification. The applicant shall also meet one of the following options for the required core curriculum:

- (1) A bachelor's degree in any field of study;
- (2) An associate's degree in a field of study related to business administration, accounting, finance, economics, or real estate;
- (3) Successful completion of 30 semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (3 hours); microeconomics (3 hours); macroeconomics (3 hours); finance (3 hours); algebra, geometry, or higher math (3 hours); statistics (3 hours); computer science (3 hours);

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business law or real estate law (3 hours); and two elective courses in any of the topics described in this subdivision or in accounting, geography, agricultural economics, business management, or real estate (3 hours each);

(4) Successful completion of at least 30 hours of College Level Examination Program (CLEP) examinations that cover each of the specific topic areas in subdivision 7 b (3) of this section. For purposes of this option, the CLEP examination for college algebra (3 hours) may be applied to the topic area of algebra, geometry, or higher math; the CLEP examination for college composition (6 hours) may be applied to the topic area of English composition; the CLEP examination for college composition modular (3 hours) may be applied to the topic area of English composition; the CLEP examination for college mathematics (6 hours) may be applied to the topic area of algebra, geometry, or higher math or statistics; the CLEP examination for principles of macroeconomics (3 hours) may be applied to the topic area of macroeconomics or finance; the CLEP examination for principles of microeconomics (3 hours) may be applied to the topic area of microeconomics or finance; the CLEP examination for introductory business law (3 hours) may be applied to the topic area of business law or real estate law; and the CLEP examination for information systems (3 hours) may be applied to the topic area of computer science;

(5) Successful completion of at least 30 hours of any combination of college-level courses and CLEP examinations that includes all of the topics identified in subdivision 7 b (3) of this section; or

(6) No college-level education. This option applies only to applicants who have held a licensed residential credential for a minimum of five years and have no record of any adverse, final, and nonappealable disciplinary action affecting the licensed residential appraiser's legal eligibility to engage in appraisal practice within the five years immediately preceding the date of application for a certified residential credential.

c. Certified general classification - 300 hours of approved real estate appraisal courses, including the 15-Hour National Uniform Standards of Professional Appraisal Practice course, from accredited colleges, universities, and junior and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards, or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The applicant must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties. The classroom hours required for the certified general classification may include the classroom hours required for the appraiser trainee, the licensed residential classification, or the certified residential classification. The required core

curriculum is a bachelor's degree or higher from an accredited college or university.

8. The applicant shall, as part of the application for licensure, verify ~~his~~ the applicant's experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be acquired within the five-year period immediately preceding the date application is made and be supported by adequate written reports or file memoranda, which shall be made available to the board upon request.

a. The applicant for a licensed residential real estate appraiser license shall have a minimum of 1,000 hours of appraisal experience, in no fewer than six months. Hours may be treated as cumulative in order to achieve the necessary 1,000 hours of appraisal experience.

b. The applicant for a certified residential real estate appraiser license shall have a minimum of 1,500 hours of appraisal experience obtained during no fewer than 12 months. Hours may be treated as cumulative in order to achieve the necessary 1,500 hours of appraisal experience.

c. The applicant for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained during no fewer than 18 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments that demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties that do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser that include the use of the income approach. The applicant must have substantially contributed to the development of the income approach in such reports and shall provide evidence or verification of such contribution.

9. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination developed or endorsed by the Appraiser Qualifications Board and provided by the board or by a testing service acting on behalf of the board. Successful completion of the examination is valid for a period of 24 months.

10. Applicants for licensure who do not meet the requirements set forth in subdivisions 4 and 5 of this section may be approved for licensure following consideration of their application by the board.

18VAC130-30-30. Qualifications for licensure as an appraisal management company.

A. Firms that meet the definition of appraisal management company as defined in § 54.1-2020 of the Code of Virginia shall submit an application on a form prescribed by the board and shall meet the requirements set forth in § 54.1-2021.1 of the Code of Virginia, as well as the additional qualifications of this section.

B. Any firm acting as an appraisal management company as defined in § 54.1-2020 of the Code of Virginia shall hold a license as an appraisal management company. All names under which the appraisal management company conducts business shall be disclosed on the application. The name under which the firm conducts business and holds itself out to the public (i.e., the trade or fictitious name) shall also be disclosed on the application. Firms shall be organized as business entities under the laws of the Commonwealth of Virginia or otherwise authorized to transact business in Virginia. Firms shall register any trade or fictitious names with the State Corporation Commission or the clerk of the court in the county or jurisdiction where the business is to be conducted in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia before submitting an application to the board.

C. The applicant for an appraisal management company license shall disclose the firm's mailing address and the firm's physical address. A post office box is only acceptable as a mailing address when a physical address is also provided.

D. In accordance with § 54.1-204 of the Code of Virginia, each applicant for an appraisal management company license shall have any person who owns 10% or more of the firm and the controlling person of the firm submit to fingerprinting and a background investigation and disclose the following information:

1. All felony convictions.
2. All misdemeanor convictions except marijuana convictions in any jurisdiction that occurred within five years of the date of application.
3. Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

E. The applicant for an appraisal management company license, the controlling person, the responsible person, and any person who owns 10% or more of the firm shall be in good standing in Virginia and in every jurisdiction and with every board or administrative body where licensed, certified, or registered, and the board, in its discretion, may deny licensure to any applicant who has been subject to, or whose controlling

person or responsible person has been subject to, or any person who owns 10% or more of the firm has been subject to, any form of adverse disciplinary action, including (i) reprimand; revocation, suspension, or denial of license; imposition of a monetary penalty; requirement to complete remedial education, or any other corrective action in any jurisdiction or by any board or administrative body or (ii) surrender of a license, a certificate, or registration in connection with any disciplinary action in any jurisdiction prior to obtaining licensure in Virginia.

F. The board shall deny the application for licensure of an applicant for an appraisal management company if any person or entity that owns any part of the appraisal management company has had a license to act as an appraiser refused, denied, canceled, surrendered in lieu of revocation, or revoked in Virginia or any jurisdiction.

G. The applicant for an appraisal management company license shall be in compliance with the standards of conduct and practice set forth in Part V (18VAC130-30-120 et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

H. The applicant for an appraisal management company license shall submit evidence of a bond or letter of credit in accordance with § 54.1-2021.1 D of the Code of Virginia. Proof of current bond or letter of credit with the appraisal management company as the named bond holder or letter of credit holder must be submitted to obtain or renew the license. The bond or letter of credit must be in force no later than the effective date of the license and shall remain in effect through the date of expiration of the license. The bond or letter of credit shall include:

1. The principal of the bond or letter of credit;
2. The beneficiary of the bond or letter of credit;
3. The name of the surety or financial institution that issued the bond or letter of credit;
4. The bond or letter of credit number as assigned by the issuer;
5. The dollar amount; and
6. The expiration date or, if self-renewing, the date by which the bond or letter of credit shall be renewed.

I. The firm shall provide the name, address, and contact information for any person or entity that owns 10% or more of the appraisal management company.

J. The firm shall designate a responsible person.

18VAC130-30-150. Notice of adverse action.

A. Licensed appraisal management companies shall notify the board of the following actions against the firm, the responsible

Regulations

person, any controlling person, or any person who owns 10% or more of the firm:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including, ~~but not limited to~~, any reprimand; license or certificate revocation, suspension, or denial; monetary penalty; or requirement for remedial education or other corrective action.
2. Any voluntary surrender of a license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

VA.R. Doc. No. R22-6946; Filed September 9, 2021, 11:54 a.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Final Regulation

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

Titles of Regulations: **18VAC160-30. Waterworks and Wastewater Works Operators Licensing Regulations (amending 18VAC160-30-60, 18VAC160-30-310).**

18VAC160-40. Onsite Sewage System Professionals Licensing Regulations (amending 18VAC160-40-60, 18VAC160-40-460).

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Effective Date: December 8, 2021.

Agency Contact: Trisha L. Lindsey, Executive Director, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email waterwasteoper@dpor.virginia.gov.

Summary:

Pursuant to Chapters 550 and 551 of the 2021 Acts of Assembly, Special Session I, the amendments conform regulations concerning qualifications for licensure and standards of conduct to the requirements of § 19.2-389.3 of the Code of Virginia and remove requirements for reporting by applicants or licensees of misdemeanor marijuana convictions.

18VAC160-30-60. General requirements for licensure.

A. In addition to the specific qualifications for each category and classification of licensure, each applicant for licensure shall meet the requirements provided in this section.

1. The applicant shall be at least 18 years old.
2. The applicant shall disclose ~~his~~ the applicant's mailing address. A post office box is only acceptable as a mailing address when a physical address is also provided.
3. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information.
 - a. All felony convictions.
 - b. All misdemeanor convictions, except marijuana convictions, in any jurisdiction that occurred within three years of the date of application.

Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

B. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

C. The applicant shall report any suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction prior to applying for licensure. The board, at its discretion, may deny licensure to any applicant based on prior suspensions, revocations, or surrenders of licenses based on disciplinary action by any jurisdiction.

18VAC160-30-310. Notice of adverse action.

A. Licensees shall notify the board of the following actions against the licensee:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any reprimand, license or certificate revocation, suspension or denial, monetary penalty, requirement for remedial education, or other corrective action.

2. Any voluntary surrendering of a related license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.

3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any (i) misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, or physical injury, or relating to the practice of the profession, or (ii) felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

18VAC160-40-60. General requirements for licensure.

A. In addition to the specific qualifications for each profession, class, and category of licensure, each applicant for licensure shall meet the requirements provided in this section:

1. The applicant shall be at least 18 years old.
2. The applicant shall disclose ~~his~~ the applicant's mailing address. A post office box is only acceptable as a mailing address when a physical address is provided.
3. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information:
 - a. All felony convictions.
 - b. All misdemeanor convictions, except marijuana convictions, that occurred within three years of the date of application.

Any plea of nolo contendere or finding of guilt regardless of adjudication or deferred adjudication shall be considered a conviction for the purposes of this section. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt.

B. The board, at its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

C. The applicant shall report any suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action or that has been subject of discipline in any jurisdiction prior to applying for licensure. The board at its discretion may deny licensure to any applicant based on prior suspensions, revocations, or surrenders of licenses based on disciplinary action by any jurisdiction.

18VAC160-40-460. Notice of adverse action.

A. Licensees shall notify the board of the following actions against the licensee.

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any reprimand, license or certificate revocation, suspension or denial, monetary penalty, requirement for remedial education, or other corrective action.
2. Any voluntary surrendering of a related license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any misdemeanor involving lying, cheating, stealing, sexual offense, non-marijuana drug distribution, physical injury, or relating to the practice of the profession or of any felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purpose of this section.

B. Notices to the board must be made in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction finding or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

VA.R. Doc. No. R22-6971; Filed September 27, 2021, 6:13 p.m.



TITLE 19. PUBLIC SAFETY

DEPARTMENT OF STATE POLICE

Final Regulation

REGISTRAR'S NOTICE: The Department of State Police is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 6 of the Code of Virginia, which exempts agency action relating to customary military, naval, or police functions.

Title of Regulation: 19VAC30-20. Motor Carrier Safety Regulations (amending 19VAC30-20-80).

Regulations

Statutory Authority: § 52-8.4 of the Code of Virginia; 49 CFR Part 390.

Effective Date: December 8, 2021.

Agency Contact: Lieutenant Shawn Gobble, Assistant Safety Officer, Department of State Police, 3719 Saunders Avenue, Richmond, VA 23227, telephone (804) 278-5331, or email shawn.gobble@vsp.virginia.gov.

Summary:

The amendment updates the reference to the Federal Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration to those in effect on and after November 1, 2021.

19VAC30-20-80. Compliance.

Every person and commercial motor vehicle subject to this chapter operating in interstate or intrastate commerce within or through the Commonwealth of Virginia shall comply with the Federal Motor Carrier Safety Regulations promulgated by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, with amendments promulgated and in effect as of ~~June 30~~ November 1, 2021, pursuant to the United States Motor Carrier Safety Act found in 49 CFR Parts 366, 370 through 376, 379, 380 Subparts E and F, 382, 385, 386 Subpart G, 387, 390 through 397, and 399, which are incorporated in this chapter by reference, with certain exceptions.

VA.R. Doc. No. R22-6951; Filed October 18, 2021, 10:24 a.m.

GUIDANCE DOCUMENTS

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.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Titles of Documents: [Procedures for Auditing Continued Competency Requirements.](#)

[Confidential Consent Agreements.](#)

[Identification of Funeral Service Interns.](#)

[Participation in Virginia Department of Treasury Unclaimed Property Audit.](#)

Public Comment Deadline: December 8, 2021.

Effective Date: December 9, 2021.

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

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Titles of Documents: [Virginia Broadband Availability Map Internet Service Provider Service Territory Data Submission Guidelines.](#)

[Utility Leverage Program – Unserved Certification Guidelines.](#)

Public Comment Deadline: December 8, 2021.

Effective Date: December 9, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, or email kyle.flanders@dhcd.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: [Draft One-time COVID-19 Support Payment for Attendants and Aides.](#)

Public Comment Deadline: December 8, 2021.

Effective Date: December 9, 2021.

Agency Contact: Emily McClellan, Policy and Research Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-6043, or email emily.mcclellan@dmas.virginia.gov.

DEPARTMENT OF MOTOR VEHICLES

Titles of Documents: [Obtaining a Virginia Driver's License or Identification ID Card.](#)

[Obtención de una licencia de conducción de Virginia o una tarjeta de identificación ID.](#)

[Virginia Troops to Trucks.](#)

Public Comment Deadline: December 8, 2021.

Effective Date: December 9, 2021.

Agency Contact: Melissa K. Velazquez, Legislative Director, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-1844, or email melissa.velazquez@dmv.virginia.gov.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

Title of Document: [Grant Application Guidance and Grant Management Procedures for Federal Transit Administration Section 5310 - Enhanced Mobility of Seniors and Individuals with Disabilities Programs.](#)

Public Comment Deadline: December 8, 2021.

Effective Date: December 9, 2021.

Agency Contact: Andrew Wright, Senior Legislative and Policy Specialist, Department of Rail and Public Transportation, 600 East Main Street, Suite 2102, Richmond, VA 23219, telephone (804) 241-0301, or email andrew.wright@drpt.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Mental Health Services Manual Appendix G

The draft Mental Health Services Provider Manual Appendix G is now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/>.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, email meredith.lee@dmas.virginia.gov.

Draft Telehealth Services Supplement

The draft Telehealth Services Supplement and the Remote Patient Monitoring SA Form are now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until November 12, 2021.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Manager, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, email meredith.lee@dmas.virginia.gov.

Virginia Home and Community Based Services Heightened Scrutiny Submission

As required by the Centers for Medicare and Medicaid Services, Virginia is posting the assessment results of the Virginia Home and Community Based Services (HCBS) settings that reached heightened scrutiny status. These documents contain information related to the required compliance elements of the HCBS Final Rule.

These documents are available on the Department of Medical Assistance Services website under the header "HNS Packages for Public Comment" at <https://www.dmas.virginia.gov/for-providers/high-needs-support/policy-and-provider-manual/> for public comment until November 17, 2021.

Contact Information: Donna Boyce, Senior Advisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 837-2361, donna.boyce@dmas.virginia.gov.

STATE WATER CONTROL BOARD

Public Meeting and Comment Period for the Fryingpan Creek, Pigg River, Poplar Branch, and Beaverdam Creek Total Maximum Daily Load Study

Public meeting: A public meeting will be held to discuss Fryingpan Creek, Pigg River, Poplar Branch, and Beaverdam Creek on November 18, 2021, from 6 p.m. until 8 p.m. at the Essig Recreation Center, 295 Technology Drive, Rocky Mount, VA 24151.

Description: Fryingpan Creek, Pigg River, Poplar Branch, and Beaverdam Creek are located in Franklin, Pittsylvania, and Bedford Counties and are listed on the § 303(d) Total Maximum Daily Load (TMDL) Priority List and Report as impaired due to violations of Virginia's water quality standards for the General Standard (Benthics). This means that the stream bug community is not as healthy as the Department of Environmental Quality (DEQ) would expect. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia requires DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's § 303(d) TMDL Priority List and Report. DEQ and its contractors, Wetland Studies and Solutions Inc. and James Madison University, will discuss these impairments, the process used in identifying the most likely stressor to the watersheds, and the watershed modeling approach and solicit feedback from watershed stakeholders. This meeting is an opportunity for local residents to learn about the condition of these streams, share information about the area, and become involved in the process of local water quality improvement. A 30-day comment period will follow the public meeting. An advisory committee to assist in development of this clean-up study (i.e., TMDL) will be established. Any person interested in assisting should notify the DEQ contact person listed at the end of this notice by the end of the comment period and provide their name, address, phone number, email address, and the organization represented (if any). Notification of the composition of the panel will be sent to all applicants.

Public Comment Period: November 18, 2021, through January 3, 2022.

Additional Information: TMDL program can be found at <https://www.deq.virginia.gov/water/water-quality/tmdl-development>.

How to submit comments: Comments can be emailed or mailed to Lucy Smith using the contact information listed.

Contact Information: Lucy Smith, TMDL Coordinator, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 562-6718, or email lucy.smith@deq.virginia.gov.

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.

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.

ERRATA

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: **18VAC41-20 Barbering and Cosmetology Regulations.**

Publication: 38:4 VA.R. 438-452 October 11, 2021.

Correction to Final Regulation:

Page 439, 18VAC41-20-20, B 2, 1st column, after "territories."
Text should read:

"Any person completing a barber, master barber, cosmetology, nail care, or waxing training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the substantially equivalent training to be eligible for examination. Applicants who completed a training program that is not substantially equivalent to Virginia's training, including out of country training, may substitute five years of work experience for training. Applicants should provide their work history demonstrating five years of experience as a licensed barber, master barber, cosmetologist, nail technician, or wax technician in any other state or jurisdiction of the United States on a form provided by the board."

VA.R. Doc. No. R22-6910; Filed October 21, 2021, 1:28 p.m.

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Title of Regulation: **18VAC80-30 Opticians Regulations.**

Publication: 38:4 VA.R. 456-460 October 11, 2021.

Correction to Final Regulation:

Page 460, 18VAC80-30-20, subdivision 5 b, column 1, first line, after "apprenticeship" replace "with a minimum of one school year of related instruction or home study" with ", including all required related technical instruction,"

VA.R. Doc. No. R22-6911; Filed October 26, 2021, 11:00 a.m.

REAL ESTATE BOARD

Title of Regulation: **18VAC135-50. Fair Housing Regulations.**

Publication: 38:5 VA.R. 688-698 October 25, 2021.

Correction to Title of Regulation:

Page 689, line 3, after "**through**" remove "**18VAC135-40-160**"

VA.R. Doc. No. R22-6906; Filed October 27, 2021, 10:37 a.m.