



Virginia Register of Regulations

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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, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006**, refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

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: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **Jane M. Roush**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register's* Internet home page (<http://register.state.va.us>).

November 2008 through August 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
FINAL INDEX Volume 24		October 2008
25:6	November 5, 2008	November 24, 2008
25:7	November 18, 2008 (Tuesday)	December 8, 2008
INDEX 1 Volume 25		January 2009
25:8	December 3, 2008	December 22, 2008
25:9	December 16, 2008 (Tuesday)	January 5, 2009
25:10	December 30, 2008 (Tuesday)	January 19, 2009
25:11	January 14, 2009	February 2, 2009
25:12	January 28, 2009	February 16, 2009
25:13	February 11, 2009	March 2, 2009
25:14	February 25, 2009	March 16, 2009
INDEX 2 Volume 25		April 2009
25:15	March 11, 2009	March 30, 2009
25:16	March 25, 2009	April 13, 2009
25:17	April 8, 2009	April 27, 2009
25:18	April 22, 2009	May 11, 2009
25:19	May 6, 2009	May 25, 2009
25:20	May 20, 2009	June 8, 2009
INDEX 3 Volume 25		July 2009
25:21	June 3, 2009	June 22, 2009
25:22	June 17, 2009	July 6, 2009
25:23	July 1, 2009	July 20, 2009
25:24	July 15, 2009	August 3, 2009
25:25	July 29, 2009	August 17, 2009

*Filing deadlines are Wednesdays unless otherwise specified.

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2008 VAC Supplement includes final regulations published through *Virginia Register* Volume 24, Issue 7, dated December 10, 2007, and fast-track regulations published through *Virginia Register* Volume 24 Issue 10, dated January 21, 2008). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 30-45-10 through 1 VAC 30-45-860	Added	24:25 VA.R. 3449-3506	**
1 VAC 30-46-10 through 1 VAC 30-46-210	Added	24:25 VA.R. 3506-3523	**
1 VAC 50-10-60 through 1 VAC 50-10-150	Repealed	25:2 VA.R. 119	10/29/08
1 VAC 50-11-10 through 1 VAC 50-11-110	Added	25:2 VA.R. 119-122	10/29/08
1 VAC 55-10-10 through 1 VAC 55-10-50	Repealed	25:2 VA.R. 122	10/29/08
1 VAC 55-11-10 through 1 VAC 55-11-110	Added	25:2 VA.R. 122-125	10/29/08
1 VAC 75-10-10 through 1 VAC 75-10-40	Repealed	24:25 VA.R. 3523	9/17/08
1 VAC 75-11-10 through 1 VAC 75-11-110	Added	24:25 VA.R. 3523-3526	9/17/08
Title 2. Agriculture			
2 VAC 5-10-10 through 2VAC5-10-70	Repealed	25:3 VA.R. 342	11/12/08
2 VAC 5-11-10 through 2VAC5-11-110	Added	25:3 VA.R. 343-345	11/12/08
2 VAC 5-30-10	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-30-20	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-50-20	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-70	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-100	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-110	Amended	24:17 VA.R. 2321	6/12/08
2 VAC 5-90-30	Amended	24:17 VA.R. 2322	6/12/08
2 VAC 5-100-10 through 2 VAC 5-100-40	Repealed	24:26 VA.R. 3707	10/18/08
2 VAC 5-150-10	Amended	24:17 VA.R. 2323	6/12/08
2 VAC 5-180-20	Amended	24:17 VA.R. 2326	6/12/08
2 VAC 5-180-30	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-50	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-60	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-80	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-120	Amended	24:17 VA.R. 2328	6/12/08
2 VAC 5-206-10 through 2 VAC 5-206-50	Added	24:25 VA.R. 3527-3531	10/3/08
2 VAC 5-210-30	Amended	24:9 VA.R. 1096	12/11/07
2 VAC 5-210-41	Amended	24:9 VA.R. 1097	12/11/07
2 VAC 5-330-30	Amended	25:2 VA.R. 126	10/15/08
2 VAC 5-335-10 through 2 VAC 5-335-130	Added	25:2 VA.R. 126-129	10/15/08
2 VAC 5-390-180	Amended	24:15 VA.R. 2023	3/11/08
2 VAC 5-400-5	Added	24:17 VA.R. 2330	6/12/08
2 VAC 5-420-30	Amended	24:20 VA.R. 2838	5/21/08
2 VAC 5-420-80	Amended	24:20 VA.R. 2840	5/21/08
2 VAC 5-501-80	Amended	24:17 VA.R. 2332	6/12/08

** Suspension of Regulatory Process 25:3

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 5-501-100	Amended	24:17 VA.R. 2336	6/12/08
2 VAC 5-510-10	Amended	24:17 VA.R. 2340	6/12/08
2 VAC 5-510-50	Amended	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-60	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-70	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-80	Repealed	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-90	Amended	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-100	Repealed	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-110	Amended	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-120	Repealed	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-130	Amended	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-140	Repealed	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-150	Amended	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-160	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-170	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-180	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-190	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-200	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-210	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-220	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-230	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-240	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-250	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-260	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-270	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-290	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-300	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-310	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-320	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-330	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-340	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-350	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-360	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-390	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-400	Repealed	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-410	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-420	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-500	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-510	Amended	24:17 VA.R. 2353	6/12/08
2 VAC 5-531-50	Amended	24:16 VA.R. 2235	5/29/08
2 VAC 5-531-140	Amended	24:16 VA.R. 2241	5/29/08
2 VAC 15-11-10 through 2 VAC 15-11-120	Repealed	25:4 VA.R. 576	11/26/08
2 VAC 15-12-10 through 2 VAC 15-12-110	Added	25:4 VA.R. 577-579	11/26/08
2 VAC 15-20-81	Amended	24:16 VA.R. 2242	4/14/08
2 VAC 20-10-10 through 2 VAC 20-10-120	Repealed	25:5 VA.R. 792	12/10/08
2 VAC 20-10-80	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-10-100	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-10-110	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-11-10 through 2 VAC 20-11-110	Added	25:5 VA.R. 792-795	12/10/08
2 VAC 20-20-70	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-130	Amended	24:17 VA.R. 2355	6/12/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 20-20-210	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-40-50	Amended	24:17 VA.R. 2357	6/12/08
2 VAC 20-51-10 through 2 VAC 20-51-50	Amended	25:3 VA.R. 346-350	12/1/08
2 VAC 20-51-70	Amended	25:3 VA.R. 350	12/1/08
2 VAC 20-51-90	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-100	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-160	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-170	Amended	25:3 VA.R. 352	12/1/08
2 VAC 20-51-200	Amended	25:3 VA.R. 352	12/1/08
2 VAC 20-51-210	Amended	25:3 VA.R. 352	12/1/08
Title 3. Alcoholic Beverages			
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-220	Amended	24:14 VA.R. 1891	5/1/08
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
Title 4. Conservation and Natural Resources			
4 VAC 3-10-10	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-10-20	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-10-30	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-11-10 through 4 VAC 3-11-110	Added	25:2 VA.R. 130-132	10/29/08
4 VAC 5-10-10	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-10-20	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-10-30	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-11-10 through 4 VAC 5-11-110	Added	25:2 VA.R. 133-136	10/29/08
4 VAC 5-50-10 through 4VAC5-50-170	Repealed	24:17 VA.R. 2357	5/28/08
4 VAC 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-30-5	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-30-40	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-40-30	Amended	24:23 VA.R. 3108	7/1/08
4 VAC 15-40-70	Amended	24:23 VA.R. 3108	7/1/08
4 VAC 15-40-190	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-40-210	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-40-220	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-20	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-25	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-71	Amended	24:24 VA.R. 3332	7/8/08
4 VAC 15-50-81	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-91	Amended	24:23 VA.R. 3110	7/1/08
4 VAC 15-70-50	Amended	24:23 VA.R. 3111	7/1/08
4 VAC 15-70-70	Added	24:23 VA.R. 3111	7/1/08
4 VAC 15-90-22	Amended	24:23 VA.R. 3111	7/1/08
4 VAC 15-90-70	Amended	24:23 VA.R. 3112	7/1/08
4 VAC 15-90-80	Amended	24:23 VA.R. 3112	7/1/08
4 VAC 15-90-80	Amended	24:24 VA.R. 3332	7/8/08
4 VAC 15-90-90	Amended	24:23 VA.R. 3113	7/1/08
4 VAC 15-90-91	Amended	24:23 VA.R. 3114	7/1/08
4 VAC 15-110-10	Amended	24:23 VA.R. 3117	7/1/08
4 VAC 15-110-75	Amended	24:23 VA.R. 3118	7/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-240-11	Added	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-20	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-31	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-40	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-50	Amended	24:23 VA.R. 3119	7/1/08
4 VAC 15-240-51	Added	24:23 VA.R. 3119	7/1/08
4 VAC 15-260-140	Amended	24:24 VA.R. 3333	7/8/08
4 VAC 15-270-50	Repealed	24:24 VA.R. 3334	7/8/08
4 VAC 15-320-25	Amended	24:10 VA.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 VA.R. 1274	1/1/08
4 VAC 15-350-20	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 VA.R. 1276	1/1/08
4 VAC 15-410-10 through 4 VAC 15-410-160	Added	24:23 VA.R. 3119-3125	7/1/08
4 VAC 20-40-10 through 4 VAC 20-40-40	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-10	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-20	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-30	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-140-10	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-20	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-25	Added	24:21 VA.R. 2917	3/17/09
4 VAC 20-150-30	Amended	24:10 VA.R. 1277	1/1/08
4 VAC 20-252-55	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-120	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 VA.R. 1281	1/1/08
4 VAC 20-260-35 emer	Amended	25:3 VA.R. 353	10/1/08-10/31/08
4 VAC 20-260-40 emer	Amended	25:3 VA.R. 353	10/1/08-10/31/08
4 VAC 20-270-10 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-10	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-30	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-40	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-50	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-55	Amended	24:15 VA.R. 2023	3/1/08
4 VAC 20-270-55	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-56	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-58	Added	24:19 VA.R. 2751	4/30/08
4 VAC 20-320-50	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-450-30	Amended	24:21 VA.R. 2918	6/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-530-20	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 VA.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 VA.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 VA.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 VA.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 VA.R. 960	12/1/07
4 VAC 20-610-30	Amended	24:15 VA.R. 2024	3/1/08
4 VAC 20-610-50	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-620-20	Amended	25:3 VA.R. 354	10/1/08
4 VAC 20-620-30	Amended	24:10 VA.R. 1281	12/27/07
4 VAC 20-620-30	Amended	25:3 VA.R. 354	10/1/08
4 VAC 20-620-40 emer	Amended	24:8 VA.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 VA.R. 1282	12/27/07
4 VAC 20-620-40	Amended	25:3 VA.R. 355	10/1/08
4 VAC 20-620-50	Amended	24:15 VA.R. 2025	3/1/08
4 VAC 20-620-70	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-670-20	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-25	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-30	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-40	Amended	24:19 VA.R. 2753	4/30/08
4 VAC 20-700-10 emer	Amended	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15 emer	Added	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15	Added	24:21 VA.R. 2918	6/1/08
4 VAC 20-700-20	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-700-20 emer	Amended	24:19 VA.R. 2754	5/1/08-5/31/08
4 VAC 20-700-20	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-720-20	Amended	25:3 VA.R. 357	10/1/08
4 VAC 20-720-40	Amended	24:12 VA.R. 1457	2/1/08
4 VAC 20-720-40	Amended	25:3 VA.R. 359	10/1/08
4 VAC 20-720-50	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-50	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-60	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-60	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-70	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-75	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-80	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-80	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-95	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-100	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-106 emer	Amended	25:1 VA.R. 24	9/1/08-9/30/08
4 VAC 20-720-106	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-750-10	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-10	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-30	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-30	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-40	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-50	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-751-10 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08
4 VAC 20-751-15	Added	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-15 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08

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4 VAC 20-751-20	Amended	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-20 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08
4 VAC 20-752-20	Amended	24:19 VA.R. 2754	4/30/08
4 VAC 20-752-30	Amended	24:16 VA.R. 2246	4/1/08
4 VAC 20-752-30	Amended	24:19 VA.R. 2755	4/30/08
4 VAC 20-880-10 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-10	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-880-20 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-20	Amended	24:19 VA.R. 2756	4/30/08
4 VAC 20-880-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-880-30	Amended	24:19 VA.R. 2757	4/30/08
4 VAC 20-880-30	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-910-45	Amended	24:25 VA.R. 3537	8/1/08
4 VAC 20-950-47	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48.1	Amended	24:15 VA.R. 2029	3/1/08
4 VAC 20-960-45	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-35	Added	24:12 VA.R. 1459	2/1/08
4 VAC 20-1090-10 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1090-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:19 VA.R. 2760	4/30/08
4 VAC 20-1090-30	Amended	24:21 VA.R. 2920	6/1/08
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 20-1140-10	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-20	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-30	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1150-10	Added	24:25 VA.R. 3538	8/1/08
4 VAC 20-1150-20	Added	24:25 VA.R. 3538	8/1/08
4 VAC 25-10-10 through 4 VAC 25-10-90	Repealed	25:5 VA.R. 795	12/25/08
4 VAC 25-11-10 through 4 VAC 25-11-120	Added	25:5 VA.R. 797-800	12/25/08
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-150-90	Amended	24:17 VA.R. 2359	6/12/08
4 VAC 50-10-10	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-10-20	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-10-30	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-11-10 through 4 VAC 50-11-110	Added	25:2 VA.R. 138-141	10/29/08
4 VAC 50-20-20 through 4 VAC 50-20-90	Amended	24:25 VA.R. 3539-3554	9/26/08
4 VAC 50-20-51	Added	24:25 VA.R. 3544	9/26/08
4 VAC 50-20-52	Added	24:25 VA.R. 3545	9/26/08
4 VAC 50-20-54	Added	24:25 VA.R. 3545	9/26/08
4 VAC 50-20-58	Added	24:25 VA.R. 3546	9/26/08
4 VAC 50-20-59	Added	24:25 VA.R. 3546	9/26/08
4 VAC 50-20-100 through 4 VAC 50-20-140	Repealed	24:25 VA.R. 3554-3558	9/26/08
4 VAC 50-20-105	Added	24:25 VA.R. 3554	9/26/08
4 VAC 50-20-125	Added	24:25 VA.R. 3557	9/26/08
4 VAC 50-20-150 through 4 VAC 50-20-240	Amended	24:25 VA.R. 3558-3563	9/26/08
4 VAC 50-20-155	Added	24:25 VA.R. 3558	9/26/08
4 VAC 50-20-165	Added	24:25 VA.R. 3559	9/26/08

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4 VAC 50-20-175	Added	24:25 VA.R. 3560	9/26/08
4 VAC 50-20-177	Added	24:25 VA.R. 3561	9/26/08
4 VAC 50-20-250	Repealed	24:25 VA.R. 3564	9/26/08
4 VAC 50-20-260 through 4 VAC 50-20-320	Amended	24:25 VA.R. 3564-3565	9/26/08
4 VAC 50-20-330 through 4 VAC 50-20-400	Added	24:25 VA.R. 3565-3567	9/26/08
4 VAC 50-60-10	Amended	24:20 VA.R. 2842	7/9/08
4 VAC 50-60-1200	Amended	24:20 VA.R. 2852	7/9/08
4 VAC 50-60-1210	Amended	24:20 VA.R. 2853	7/9/08
4 VAC 50-60-1220	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1230	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1240	Amended	24:20 VA.R. 2856	7/9/08
Title 5. Corporations			
5 VAC 5-20-20	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 VA.R. 1349	2/15/08
Title 6. Criminal Justice and Corrections			
6 VAC 15-10-10 through 6 VAC 15-10-100	Repealed	25:3 VA.R. 363	11/15/08
6 VAC 15-11-10 through 6 VAC 15-11-110	Added	25:3 VA.R. 363-366	11/15/08
6 VAC 15-31-320	Amended	24:25 VA.R. 3568	9/18/08
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 VA.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 VA.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 VA.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 VA.R. 1523	--
6 VAC 15-70-10	Amended	25:3 VA.R. 367	11/15/08
6 VAC 15-70-40 through 6 VAC 15-70-130	Amended	25:3 VA.R. 367-372	11/15/08
6 VAC 15-70-160	Amended	25:3 VA.R. 372	11/15/08
6 VAC 20-80-10 through 6 VAC 20-80-90	Amended	24:23 VA.R. 3127-3132	9/1/08
6 VAC 20-80-100	Repealed	24:23 VA.R. 3132	9/1/08
6 VAC 20-80-110	Repealed	24:23 VA.R. 3132	9/1/08
6 VAC 20-160-10	Amended	25:2 VA.R. 141	10/29/08
6 VAC 20-160-20	Amended	25:2 VA.R. 142	10/29/08
6 VAC 20-160-30	Amended	25:2 VA.R. 142	10/29/08
6 VAC 20-160-40	Amended	25:2 VA.R. 143	10/29/08
6 VAC 20-160-60	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-70	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-80	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-100	Amended	25:2 VA.R. 145	10/29/08
6 VAC 20-160-120	Amended	25:2 VA.R. 145	10/29/08
6 VAC 20-171-10 emer	Amended	24:23 VA.R. 3134	7/1/08 - 6/30/09
6 VAC 20-171-50 emer	Amended	24:23 VA.R. 3137	7/1/08 - 6/30/09
6 VAC 20-171-120 emer	Amended	24:23 VA.R. 3138	7/1/08 - 6/30/09
6 VAC 20-171-230 emer	Amended	24:23 VA.R. 3139	7/1/08 - 6/30/09
6 VAC 20-171-320 emer	Amended	24:23 VA.R. 3141	7/1/08 - 6/30/09
6 VAC 20-171-350 emer	Amended	24:23 VA.R. 3142	7/1/08 - 6/30/09
6 VAC 20-171-360 emer	Amended	24:23 VA.R. 3145	7/1/08 - 6/30/09
6 VAC 20-250-10 through 6 VAC 20-250-380	Added	24:23 VA.R. 3146-3161	8/20/08
6 VAC 35-10-10 through 6 VAC 35-10-150	Repealed	24:25 VA.R. 3573	9/17/08
6 VAC 35-11-10 through 6 VAC 35-11-110	Added	24:25 VA.R. 3574-3576	9/17/08
6 VAC 35-20-37 emer	Amended	25:3 VA.R. 373	8/1/07-1/31/09

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6 VAC 35-20-37	Amended	25:4 VA.R. 626	12/12/08
6 VAC 35-51-10 through 6 VAC 35-51-1100	Added	24:25 VA.R. 3577-3610	9/17/08
6 VAC 35-140-46	Added	25:3 VA.R. 376	12/12/08
6 VAC 40-10-10 through 6 VAC 40-10-90	Repealed	25:2 VA.R. 146	10/30/08
6 VAC 40-11-10 through 6 VAC 40-110	Added	25:2 VA.R. 147-149	10/30/08
6 VAC 40-20-30	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-120	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-130	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-160	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
Title 7. Economic Development			
7 VAC 10-20-10 through 7 VAC 10-20-350	Repealed	24:26 VA.R. 3719	9/1/08
7 VAC 10-21-10 through 7 VAC 10-21-610	Added	24:26 VA.R. 3719-3729	9/1/08
Title 8. Education			
8 VAC 20-650-30	Amended	24:21 VA.R. 2936	9/15/08
8 VAC 35-60-20	Amended	25:5 VA.R. 800	11/10/08
8 VAC 40-10-10 through 8 VAC 40-10-90	Repealed	25:3 VA.R. 376	1/1/09
8 VAC 40-11-10 through 8 VAC 40-11-110	Added	25:3 VA.R. 377-379	1/1/09
Title 9. Environment			
9 VAC 5-5-10 through 9 VAC 5-5-110	Added	25:5 VA.R. 801-804	1/1/09
9 VAC 5-170-20	Amended	25:5 VA.R. 804	1/1/09
9 VAC 5-170-40	Amended	25:5 VA.R. 806	1/1/09
9 VAC 5-170-80	Amended	25:5 VA.R. 807	1/1/09
9 VAC 5-170-90	Repealed	25:5 VA.R. 807	1/1/09
9 VAC 5-170-100	Repealed	25:5 VA.R. 807	1/1/09
9 VAC 5-170-110	Repealed	25:5 VA.R. 809	1/1/09
9 VAC 10-10-10	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-10-20	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-10-30	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-11-10 through 9 VAC 10-11-110	Added	25:4 VA.R. 627-630	11/26/08
9 VAC 10-20-120	Amended	24:22 VA.R. 3040	8/6/08
9 VAC 15-10-10 through 9 VAC 15-10-40	Repealed	25:5 VA.R. 809	1/1/09
9 VAC 15-11-10 through 9 VAC 15-11-110	Added	25:5 VA.R. 810-813	1/1/09
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 20-80-10	Amended	25:2 VA.R. 150	11/1/08
9 VAC 20-80-60	Amended	25:2 VA.R. 160	11/1/08
9 VAC 20-80-250	Amended	25:2 VA.R. 166	11/1/08
9 VAC 20-80-260	Amended	25:2 VA.R. 176	11/1/08
9 VAC 20-80-270	Amended	25:2 VA.R. 183	11/1/08
9 VAC 20-80-280	Amended	25:2 VA.R. 191	11/1/08
9 VAC 20-80-485	Amended	25:2 VA.R. 193	11/1/08
9 VAC 20-80-500	Amended	25:2 VA.R. 200	11/1/08
9 VAC 20-80-510	Amended	25:2 VA.R. 203	11/1/08
9 VAC 25-10-10 through 9 VAC 25-10-40	Repealed	25:5 VA.R. 813	1/1/09
9 VAC 25-11-10 through 9 VAC 25-11-110	Added	25:5 VA.R. 813-816	1/1/09
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
9 VAC 25-120-10	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 VA.R. 1108	2/6/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-120-80	Amended	24:18 VA.R. 2502	6/11/08
9 VAC 25-193-40	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-193-70	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-196-20	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 VA.R. 1125	2/6/08
9 VAC 25-196-70	Amended	24:18 VA.R. 2532	6/11/08
9 VAC 25-210-10	Amended	24:9 VA.R. 1132	2/6/08
9 VAC 25-210-10	Amended	25:5 VA.R. 894	12/10/08
9 VAC 25-210-50	Amended	25:5 VA.R. 898	12/10/08
9 VAC 25-210-60	Amended	24:9 VA.R. 1136	2/6/08
9 VAC 25-210-60	Amended	25:5 VA.R. 898	12/10/08
9 VAC 25-210-116	Amended	24:9 VA.R. 1140	2/6/08
9 VAC 25-210-130	Amended	24:9 VA.R. 1142	2/6/08
9 VAC 25-210-130	Amended	25:5 VA.R. 902	12/10/08
9 VAC 25-210-220	Amended	25:5 VA.R. 903	12/10/08
9 VAC 25-260-30	Amended	24:13 VA.R. 1741	10/22/08
9 VAC 25-260-30	Amending	24:26 VA.R. 3747	8/12/08
9 VAC 25-260-30	Amended	25:5 VA.R. 904	10/22/08
9 VAC 25-640 Appendices I through IX	Amended	25:2 VA.R. 217-231	11/1/08
9 VAC 25-640-10	Amended	25:2 VA.R. 206	11/1/08
9 VAC 25-640-20	Amended	25:2 VA.R. 209	11/1/08
9 VAC 25-640-30	Amended	25:2 VA.R. 209	11/1/08
9 VAC 25-640-50	Amended	25:2 VA.R. 210	11/1/08
9 VAC 25-640-70 through 9 VAC 25-640-120	Amended	25:2 VA.R. 210-213	11/1/08
9 VAC 25-640-130	Repealed	25:2 VA.R. 213	11/1/08
9 VAC 25-640-150 through 9 VAC 25-640-230	Amended	25:2 VA.R. 213-217	11/1/08
9 VAC 25-640-250	Amended	25:2 VA.R. 217	11/1/08
9 VAC 25-660-10	Amended	24:9 VA.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 VA.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 VA.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 VA.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 VA.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 VA.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 VA.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 VA.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 VA.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 VA.R. 1174	2/6/08
9 VAC 25-680-80	Amended	24:9 VA.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 VA.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 VA.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 VA.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-720-50	Amended	24:18 VA.R. 2540	6/11/08
9 VAC 25-720-120	Amended	24:21 VA.R. 2940	8/7/08
9 VAC 25-720-130	Amended	24:18 VA.R. 2548	6/11/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-740-10 through 9 VAC 25-740-210	Added	24:26 VA.R. 3748-3773	10/1/08
9 VAC 25-820-10	Amended	24:21 VA.R. 2942	8/7/08
9 VAC 25-820-20	Amended	24:21 VA.R. 2944	8/7/08
9 VAC 25-820-70	Amended	24:21 VA.R. 2944	8/7/08
Title 10. Finance and Financial Institutions			
10 VAC 5-20-30	Amended	24:22 VA.R. 3043	6/23/08
10 VAC 5-40-5	Added	24:22 VA.R. 3045	7/1/08
10 VAC 5-40-60	Added	24:22 VA.R. 3045	7/1/08
10 VAC 5-160-10	Amended	24:26 VA.R. 3775	8/10/08
10 VAC 5-160-70	Added	24:26 VA.R. 3776	8/10/08
10 VAC 5-160-80	Added	24:26 VA.R. 3776	8/10/08
10 VAC 5-200-10	Amended	25:4 VA.R. 637	1/1/09
10 VAC 5-200-20	Amended	25:4 VA.R. 637	1/1/09
10 VAC 5-200-33	Added	25:4 VA.R. 638	1/1/09
10 VAC 5-200-35	Added	25:4 VA.R. 639	1/1/09
10 VAC 5-200-40	Amended	25:4 VA.R. 641	1/1/09
10 VAC 5-200-60	Amended	25:4 VA.R. 642	1/1/09
10 VAC 5-200-70	Amended	25:4 VA.R. 642	1/1/09
10 VAC 5-200-80	Amended	25:4 VA.R. 643	1/1/09
10 VAC 5-200-110	Added	25:4 VA.R. 646	1/1/09
10 VAC 5-200-115	Added	25:4 VA.R. 651	1/1/09
10 VAC 5-200-120	Added	25:4 VA.R. 650	1/1/09
Title 11. Gaming			
11 VAC 10-10-10 through 11 VAC 10-10-70	Repealed	25:5 VA.R. 904	12/10/08
11 VAC 10-11-10 through 11 VAC 10-11-110	Added	25:5 VA.R. 905-907	12/10/08
11 VAC 10-130-60	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-10	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-20	Repealed	24:16 VA.R. 2248	4/14/08
11 VAC 10-180-25	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-35	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-60	Amended	24:16 VA.R. 2251	4/14/08
11 VAC 10-180-70	Amended	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-75	Added	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-80	Amended	24:16 VA.R. 2257	4/14/08
11 VAC 10-180-85	Amended	24:16 VA.R. 2258	4/14/08
11 VAC 10-180-110	Amended	24:16 VA.R. 2259	4/14/08
11 VAC 15-12-10	Repealed	25:4 VA.R. 651	11/26/08
11 VAC 15-12-20	Repealed	25:4 VA.R. 651	11/26/08
11 VAC 15-13-10 through 11 VAC 15-13-110	Added	25:4 VA.R. 652-654	11/26/08
Title 12. Health			
12 VAC 5-10-10 through 12 VAC 5-10-80	Repealed	25:4 VA.R. 654	1/1/09
12 VAC 5-11-10 through 12 VAC 5-11-110	Added	25:4 VA.R. 655-657	1/1/09
12 VAC 5-67-10 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-20 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-30 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-90-370	Added	24:19 VA.R. 2777	7/1/08
12 VAC 5-195-10 through 12 VAC 5-195-670	Added	24:19 VA.R. 2778-2802	5/26/08
12 VAC 5-220-10	Amended	24:11 VA.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 VA.R. 1353	3/5/08
12 VAC 5-220-110	Amended	25:1 VA.R. 26	10/15/08
12 VAC 5-220-130	Amended	24:11 VA.R. 1354	3/5/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-220-160	Amended	25:1 VA.R. 25	10/15/08
12 VAC 5-220-200	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-200	Amended	25:1 VA.R. 26	10/15/08
12 VAC 5-371-150	Amended	24:11 VA.R. 1357	3/5/08
12 VAC 5-381-10 through 12VAC5-381-40	Amended	24:11 VA.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12VAC5-381-100	Amended	24:11 VA.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 VA.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 VA.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-410-230	Amended	24:11 VA.R. 1371	3/5/08
12 VAC 5-481-10	Amended	24:18 VA.R. 2566	6/12/08
12 VAC 5-481-10	Amended	25:2 VA.R. 231	11/1/08
12 VAC 5-481-20	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-30	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-90	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-100	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-110	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-130	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-150	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-200	Repealed	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-230 through 12 VAC 5-481-270	Amended	24:18 VA.R. 2594-2595	6/12/08
12 VAC 5-481-340	Amended	24:18 VA.R. 2595	6/12/08
12 VAC 5-481-370 through 12 VAC 5-481-450	Amended	24:18 VA.R. 2597-2607	6/12/08
12 VAC 5-481-390	Amended	25:2 VA.R. 256	11/1/08
12 VAC 5-481-400	Amended	25:2 VA.R. 256	11/1/08
12 VAC 5-481-450	Amended	25:2 VA.R. 257	11/1/08
12 VAC 5-481-451	Added	24:25 VA.R. 3612	10/3/08
12 VAC 5-481-460	Repealed	24:18 VA.R. 2607	6/12/08
12 VAC 5-481-470	Amended	24:18 VA.R. 2608	6/12/08
12 VAC 5-481-480	Amended	24:18 VA.R. 2610	6/12/08
12 VAC 5-481-480	Amended	25:2 VA.R. 260	11/1/08
12 VAC 5-481-500	Amended	24:18 VA.R. 2619	6/12/08
12 VAC 5-481-510	Amended	24:18 VA.R. 2620	6/12/08
12 VAC 5-481-530 through 12 VAC 5-481-590	Amended	24:18 VA.R. 2622-2626	6/12/08
12 VAC 5-481-571	Added	24:18 VA.R. 2624	6/12/08
12 VAC 5-481-630 through 12 VAC 5-481-760	Amended	24:18 VA.R. 2626-2629	6/12/08
12 VAC 5-481-780	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-790	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-800	Repealed	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-810 through 12 VAC 5-481-910	Amended	24:18 VA.R. 2630-2631	6/12/08
12 VAC 5-481-930 through 12 VAC 5-481-1050	Amended	24:18 VA.R. 2632-2633	6/12/08

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12 VAC 5-481-971	Added	24:18 VA.R. 2632	6/12/08
12 VAC 5-481-1070	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1090	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1100	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1110	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1130	Amended	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1151	Added	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1160	Repealed	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1161	Added	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1190	Amended	24:18 VA.R. 2637	6/12/08
12 VAC 5-481-1200	Amended	24:18 VA.R. 2638	6/12/08
12 VAC 5-481-1220 through 12 VAC 5-481-1250	Amended	24:18 VA.R. 2639-2640	6/12/08
12 VAC 5-481-1270	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1300	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1310	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1320	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1350	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1380	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1420	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1440	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1490	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1520	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1540	Repealed	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1550	Repealed	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1560	Amended	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1570	Amended	24:18 VA.R. 2647	6/12/08
12 VAC 5-481-1670 through 12 VAC 5-481-2040	Amended	24:18 VA.R. 2647-2650	6/12/08
12 VAC 5-481-2001	Added	24:18 VA.R. 2649	6/12/08
12 VAC 5-481-2050	Repealed	24:18 VA.R. 2650	6/12/08
12 VAC 5-481-2060	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2070	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2080	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2100	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2230	Amended	24:18 VA.R. 2652	6/12/08
12 VAC 5-481-2240	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2260	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2270	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2280	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2330	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2420	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2430	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2470	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2490	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2510	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2530	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2540	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2550	Amended	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2571	Added	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2572	Added	24:18 VA.R. 2659	6/12/08
12 VAC 5-481-2573	Added	24:18 VA.R. 2660	6/12/08
12 VAC 5-481-2660 through 12 VAC 5-481-2950	Amended	24:18 VA.R. 2660-2661	6/12/08

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12 VAC 5-481-2870	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-481-2970	Amended	24:18 VA.R. 2661	6/12/08
12 VAC 5-481-2980	Amended	24:18 VA.R. 2662	6/12/08
12 VAC 5-481-3000 through 12 VAC 5-481-3040	Amended	24:18 VA.R. 2663-2665	6/12/08
12 VAC 5-481-3070 through 12 VAC 5-481-3140	Amended	24:18 VA.R. 2667-2670	6/12/08
12 VAC 5-481-3050	Repealed	24:18 VA.R. 2665	6/12/08
12 VAC 5-481-3051	Added	24:18 VA.R. 2666	6/12/08
12 VAC 5-481-3091	Added	24:18 VA.R. 2668	6/12/08
12 VAC 5-481-3151	Added	24:18 VA.R. 2670	6/12/08
12 VAC 5-481-3160	Amended	24:18 VA.R. 2671	6/12/08
12 VAC 5-481-3160	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-481-3200 through 12 VAC 5-481-3270	Amended	24:18 VA.R. 2671-2675	6/12/08
12 VAC 5-481-3241	Added	24:18 VA.R. 2673	6/12/08
12 VAC 5-481-3261	Added	24:18 VA.R. 2674	6/12/08
12 VAC 5-481-3290	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3300	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3340	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3350	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3400	Amended	24:18 VA.R. 2676	6/12/08
12 VAC 5-481-3430	Amended	24:18 VA.R. 2677	6/12/08
12 VAC 5-481-3440	Amended	24:18 VA.R. 2683	6/12/08
12 VAC 5-481-3480	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3490	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3510	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3520	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3530	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3560	Amended	24:18 VA.R. 2686	6/12/08
12 VAC 5-481-3580	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3600	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3610	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3650	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3670	Repealed	24:18 VA.R. 2689	6/12/08
12 VAC 5-481-3680 through 12 VAC 5-481-3780	Added	24:18 VA.R. 2689-2715	6/12/08
12 VAC 5-481-3710	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-590-10	Amended	25:5 VA.R. 908	12/10/08
12 VAC 5-590-370	Amended	25:5 VA.R. 916	12/10/08
12 VAC 5-590-410	Amended	25:5 VA.R. 955	12/10/08
12 VAC 5-590-420	Amended	25:5 VA.R. 959	12/10/08
12 VAC 5-590-440	Amended	25:5 VA.R. 994	12/10/08
12 VAC 5-590-500	Amended	25:5 VA.R. 998	12/10/08
12 VAC 5-590-530	Amended	25:5 VA.R. 999	12/10/08
12 VAC 5-590-540	Amended	25:5 VA.R. 1011	12/10/08
12 VAC 5-590-545	Amended	25:5 VA.R. 1016	12/10/08
12 VAC 5-590-550	Amended	25:5 VA.R. 1021	12/10/08
12 VAC 30-5-10 through 12 VAC 30-5-110	Added	25:3 VA.R. 380-383	11/12/08
12 VAC 30-10-815	Added	25:4 VA.R. 662	11/26/08
12 VAC 30-40-290 emer	Amended	25:1 VA.R. 35	8/27/08-8/26/09
12 VAC 30-50-130 emer	Amended	24:23 VA.R. 3165	7/2/08 - 7/1/09
12 VAC 30-50-130	Amended	25:5 VA.R. 1041	12/10/08
12 VAC 30-50-140 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-150 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08

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12 VAC 30-50-180 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-228 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-229.1	Repealed	25:5 VA.R. 1045	12/10/08
12 VAC 30-50-491 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-530	Amended	25:5 VA.R. 1049	12/10/08
12 VAC 30-60-180 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-60-185 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-60-500 emer	Added	25:3 VA.R. 384	8/8/07-2/7/09
12 VAC 30-70-70	Amended	25:3 VA.R. 387	11/27/08
12 VAC 30-70-221	Amended	24:21 VA.R. 2959	7/23/08
12 VAC 30-70-261	Amended	25:3 VA.R. 388	11/27/08
12 VAC 30-70-271	Amended	25:3 VA.R. 388	11/27/08
12 VAC 30-70-311	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-70-321	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-70-500	Repealed	25:3 VA.R. 389	11/27/08
12 VAC 30-80-30	Erratum	24:17 VA.R. 2473	--
12 VAC 30-80-30	Amended	24:21 VA.R. 2962	7/23/08
12 VAC 30-80-32 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-80-40 emer	Amended	24:25 VA.R. 3617	8/4/08-8/3/09
12 VAC 30-80-75	Added	24:21 VA.R. 2965	7/23/08
12 VAC 30-80-190 emer	Amended	25:1 VA.R. 41	8/27/08-8/26/09
12 VAC 30-90-41	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-90-264	Amended	25:3 VA.R. 390	11/27/08
12 VAC 30-100-10 through 12 VAC 30-100-60	Repealed	25:3 VA.R. 383-384	11/12/08
12 VAC 30-100-170	Amended	24:25 VA.R. 3622	10/2/08
12 VAC 30-120-70 emer	Amended	24:23 VA.R. 3168	7/1/08 - 6/30/09
12 VAC 30-120-90 emer	Amended	24:23 VA.R. 3169	7/1/08 - 6/30/09
12 VAC 30-120-100	Amended	24:26 VA.R. 3781	10/15/08
12 VAC 30-120-140 emer	Amended	24:23 VA.R. 3171	7/1/08 - 6/30/09
12 VAC 30-120-211 emer	Amended	24:23 VA.R. 3174	7/1/08 - 6/30/09
12 VAC 30-120-213 emer	Amended	24:23 VA.R. 3177	7/1/08 - 6/30/09
12 VAC 30-120-225 emer	Amended	24:23 VA.R. 3178	7/1/08 - 6/30/09
12 VAC 30-120-229 emer	Amended	24:23 VA.R. 3181	7/1/08 - 6/30/09
12 VAC 30-120-237 emer	Amended	24:23 VA.R. 3182	7/1/08 - 6/30/09
12 VAC 30-120-247 emer	Amended	24:23 VA.R. 3184	7/1/08 - 6/30/09
12 VAC 30-120-310 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-120-370 emer	Amended	25:3 VA.R. 393	9/1/07-3/3/09
12 VAC 30-120-380 emer	Amended	25:3 VA.R. 393	9/1/07-3/3/09
12 VAC 30-120-380 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-120-700 emer	Amended	24:23 VA.R. 3185	7/1/08 - 6/30/09
12 VAC 30-120-710 emer	Amended	24:23 VA.R. 3189	7/1/08 - 6/30/09
12 VAC 30-120-754 emer	Amended	24:23 VA.R. 3190	7/1/08 - 6/30/09
12 VAC 30-120-758 emer	Amended	24:23 VA.R. 3191	7/1/08 - 6/30/09
12 VAC 30-120-762 emer	Amended	24:23 VA.R. 3192	7/1/08 - 6/30/09
12 VAC 30-120-770 emer	Amended	24:23 VA.R. 3193	7/1/08 - 6/30/09
12 VAC 30-120-900 emer	Amended	24:23 VA.R. 3195	7/1/08 - 6/30/09
12 VAC 30-120-910 emer	Amended	24:23 VA.R. 3197	7/1/08 - 6/30/09
12 VAC 30-120-920 emer	Amended	24:23 VA.R. 3198	7/1/08 - 6/30/09
12 VAC 30-120-970 emer	Amended	24:23 VA.R. 3200	7/1/08 - 6/30/09
12 VAC 30-120-1500 emer	Amended	24:23 VA.R. 3202	7/1/08 - 6/30/09
12 VAC 30-120-1550 emer	Amended	24:23 VA.R. 3204	7/1/08 - 6/30/09

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-2000 emer	Added	24:23 VA.R. 3206	7/1/08 - 6/30/09
12 VAC 30-120-2010 emer	Added	24:23 VA.R. 3207	7/1/08 - 6/30/09
12 VAC 30-135-10	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-20	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-30	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-40	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-70	Amended	24:26 VA.R. 3784	10/16/08
12 VAC 35-11-10 through 12 VAC 35-11-110	Repealed	25:2 VA.R. 271	10/29/08
12 VAC 35-12-10 through 12 VAC 35-12-110	Added	25:2 VA.R. 271-274	10/29/08
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
Title 13. Housing			
13 VAC 5-10-10 through 13 VAC 5-10-120	Repealed	25:4 VA.R. 666	11/26/08
13 VAC 5-11-10 through 13 VAC 5-11-110	Added	25:4 VA.R. 667-669	11/26/08
13 VAC 5-21-10	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-20	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-31	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-41	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-45	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-51	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-61	Amended	24:14 VA.R. 1896	5/1/08
13 VAC 5-31-20 through 13 VAC 5-31-50	Amended	24:14 VA.R. 1897-1898	5/1/08
13 VAC 5-31-70 through 13 VAC 5-31-170	Repealed	24:14 VA.R. 1898-1903	5/1/08
13 VAC 5-31-75	Added	24:14 VA.R. 1898	5/1/08
13 VAC 5-31-85	Added	24:14 VA.R. 1900	5/1/08
13 VAC 5-31-200	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-210	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-215 through 13 VAC 5-31-270	Added	24:14 VA.R. 1904-1905	5/1/08
13 VAC 5-51-21 through 13 VAC 5-51-51	Amended	24:14 VA.R. 1907-1910	5/1/08
13 VAC 5-51-81	Amended	24:14 VA.R. 1910	5/1/08
13 VAC 5-51-81	Amended	24:25 VA.R. 3622	10/1/08
13 VAC 5-51-85	Amended	24:14 VA.R. 1921	5/1/08
13 VAC 5-51-91	Amended	24:14 VA.R. 1924	5/1/08
13 VAC 5-51-130 through 13 VAC 5-51-135	Amended	24:14 VA.R. 1925-1928	5/1/08
13 VAC 5-51-143	Added	24:14 VA.R. 1928	5/1/08
13 VAC 5-51-145	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-150	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-152	Repealed	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-154	Amended	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-155	Amended	24:14 VA.R. 1939	5/1/08
13 VAC 5-63-10 through 13 VAC 5-63-50	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-70	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-80	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-100 through 13 VAC 5-63-130	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-150	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-160	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-190 through 13 VAC 5-63-260	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-225	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-265	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-267	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-270	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-280	Amended	24:14 VA.R. 1941	5/1/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-63-300 through 13 VAC 5-63-360	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-335	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-400	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-430	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-432	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-434 through 13 VAC 5-63-450	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-470 through 13 VAC 5-63-500	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-520	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-525	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-550	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-91-20	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-100	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-110	Repealed	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-115	Added	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-120	Amended	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-160	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-91-270	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-95-10	Amended	24:14 VA.R. 1947	5/1/08
13 VAC 5-95-30	Amended	24:14 VA.R. 1948	5/1/08
13 VAC 5-112-340	Amended	24:8 VA.R. 979	1/23/08
13 VAC 5-200-10	Amended	24:26 VA.R. 3784	10/1/08
13 VAC 5-200-40 through 13 VAC 5-200-80	Amended	24:26 VA.R. 3784-3785	10/1/08
13 VAC 5-200-100	Amended	24:26 VA.R. 3785	10/1/08
13 VAC 6-10-10 through 13 VAC 6-10-120	Repealed	25:3 VA.R. 394	11/13/08
13 VAC 6-11-10 through 13 VAC 6-11-110	Added	25:3 VA.R. 394-397	11/13/08
13 VAC 10-180-10	Amended	24:11 VA.R. 1373	2/4/08
13 VAC 10-180-50	Amended	24:11 VA.R. 1374	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1387	2/4/08
13 VAC 10-180-100	Amended	24:11 VA.R. 1397	2/4/08
Title 14. Insurance			
14 VAC 5-30-30	Amended	24:15 VA.R. 2153	4/1/08
14 VAC 5-200-185	Amended	24:15 VA.R. 2155	4/1/08
14 VAC 5-211-50	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-211-90	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-211-100	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-215 (Forms)	Amended	24:17 VA.R. 2452	--
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 VA.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 VA.R. 1467	1/1/10
14 VAC 5-270-146	Added	24:12 VA.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 VA.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-395-40	Amended	24:26 VA.R. 3811	8/29/08
Title 15. Judicial			
15 VAC 5-80-50	Amended	24:23 VA.R. 3211	7/1/08
Title 16. Labor and Employment			
16 VAC 15-10-10 through 16 VAC 15-10-100	Repealed	25:4 VA.R. 672	11/26/08
16 VAC 15-11-10 through 16 VAC 15-11-110	Added	25:4 VA.R. 672-675	11/26/08
16 VAC 15-21-30	Amended	24:23 VA.R. 3213	8/21/08

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16 VAC 15-30-40	Amended	24:25 VA.R. 3632	9/18/08
16 VAC 15-30-190	Amended	24:23 VA.R. 3214	8/21/08
16 VAC 20-10-10 through 16 VAC 20-10-100	Repealed	25:4 VA.R. 675	11/27/08
16 VAC 20-11-10 through 16 VAC 20-11-110	Added	25:4 VA.R. 676-678	11/27/08
16 VAC 20-20-20	Amended	24:22 VA.R. 3065	8/7/08
16 VAC 20-20-40	Amended	24:22 VA.R. 3066	8/7/08
16 VAC 20-20-50	Amended	24:22 VA.R. 3068	8/7/08
16 VAC 20-20-60	Amended	24:22 VA.R. 3069	8/7/08
16 VAC 20-20-80	Amended	24:22 VA.R. 3070	8/7/08
16 VAC 20-20-110	Amended	24:22 VA.R. 3070	8/7/08
16 VAC 25-10-10 through 16 VAC 25-10-120	Repealed	24:26 VA.R. 3811	10/1/08
16 VAC 25-11-10 through 16 VAC 25-11-110	Added	24:26 VA.R. 3811-3814	10/1/08
16 VAC 25-90-1910.6	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.68	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.94	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.103	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.107	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.110	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.111	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.132	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-90-1910.144	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.243	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.251	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.253	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.261	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-100-1915.152	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-120-1917.96	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-130-1918.106	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-175-1926.95	Added	24:16 VA.R. 2263	6/1/08
Title 17. Libraries and Cultural Resources			
17 VAC 15-10-10	Repealed	25:5 VA.R. 1064	12/10/08
17 VAC 15-11-10 through 17 VAC 15-11-110	Added	25:5 VA.R. 1065-1067	12/10/08
Title 18. Professional and Occupational Licensing			
18 VAC 5-10-10 through 18 VAC 5-10-90	Repealed	25:4 VA.R. 678	11/26/08
18 VAC 5-11-10 through 18 VAC 5-11-110	Added	25:4 VA.R. 679-682	11/26/08
18 VAC 10-10-10 through 18 VAC 10-10-90	Repealed	25:4 VA.R. 682	11/27/08
18 VAC 10-11-10 through 18 VAC 10-11-110	Added	25:4 VA.R. 682-685	11/27/08
18 VAC 10-20-10	Amended	25:3 VA.R. 397	12/1/08
18 VAC 10-20-120	Amended	25:3 VA.R. 399	12/1/08
18 VAC 10-20-120	Amended	25:5 VA.R. 1068	1/1/09
18 VAC 10-20-140	Amended	25:5 VA.R. 1068	1/1/09
18 VAC 10-20-280	Amended	25:3 VA.R. 399	12/1/08
18 VAC 10-20-295	Amended	25:3 VA.R. 400	12/1/08
18 VAC 10-20-310	Amended	25:3 VA.R. 400	12/1/08
18 VAC 10-20-340	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-350	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-360	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-380	Amended	25:3 VA.R. 402	12/1/08
18 VAC 10-20-382	Added	25:3 VA.R. 403	12/1/08
18 VAC 10-20-392	Added	25:3 VA.R. 404	12/1/08
18 VAC 10-20-395	Added	25:3 VA.R. 404	12/1/08

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18 VAC 10-20-760	Amended	25:3 VA.R. 404	12/1/08
18 VAC 15-10-10 through 18 VAC 15-10-90	Repealed	25:1 VA.R. 55	10/15/08
18 VAC 15-11-10 through 18 VAC 15-11-110	Added	25:1 VA.R. 55-58	10/15/08
18 VAC 15-20-451	Amended	24:17 VA.R. 2455	8/1/08
18 VAC 30-10-10 through 18 VAC 30-10-120	Repealed	25:5 VA.R. 1070	12/10/08
18 VAC 30-11-10 through 18 VAC 30-11-110	Added	25:5 VA.R. 1070-1073	12/10/08
18 VAC 30-20 (Forms)	Amended	24:26 VA.R. 3814	--
18 VAC 30-20-80	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 VA.R. 1285	2/20/08
18 VAC 45-10-10 through 18 VAC 45- 10-90	Repealed	24:26 VA.R. 3815	10/2/08
18 VAC 45-11-10 through 18 VAC 45-11-110	Added	24:26 VA.R. 3815-3818	10/2/08
18 VAC 48-10-10 through 18 VAC 48-10-110	Added	25:3 VA.R. 411-414	11/13/08
18 VAC 48-20-10 through 18 VAC 48-20-730 emer	Added	25:5 VA.R. 1074-1093	11/13/08-11/12/09
18 VAC 48-40-10 through 18 VAC 48-40-110	Added	25:4 VA.R. 685-688	11/27/08
18 VAC 48-50-10 through 18 VAC 48-50-200 emer	Added	25:5 VA.R. 1095-1100	11/13/08-11/12/09
18 VAC 48-60-10 through 18 VAC 48-60-60	Added	25:4 VA.R. 688-689	11/27/08
18 VAC 50-22-40	Amended	25:3 VA.R. 415	12/1/08
18 VAC 50-22-50	Amended	25:3 VA.R. 415	12/1/08
18 VAC 50-22-60	Amended	25:3 VA.R. 416	12/1/08
18 VAC 50-22-300 through 18 VAC 50-22-350	Added	25:3 VA.R. 417-418	12/1/08
18 VAC 60-10-10 through 18 VAC 60-10-120	Repealed	25:3 VA.R. 418	11/12/08
18 VAC 60-11-10 through 18 VAC 60-11-110	Added	25:3 VA.R. 419-422	11/12/08
18 VAC 60-20 (Forms)	Amended	25:1 VA.R. 58	--
18 VAC 60-20-30	Amended	24:20 VA.R. 2874	7/24/08
18 VAC 60-20-81	Added	24:14 VA.R. 1949	4/16/08
18 VAC 60-20-108	Amended	24:14 VA.R. 1950	4/16/08
18 VAC 60-20-190	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 60-20-220	Amended	24:10 VA.R. 1287	3/10/08
18 VAC 60-20-220	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 65-10-10 through 18 VAC 65-10-120	Repealed	25:2 VA.R. 291	10/29/08
18 VAC 65-11-10 through 18 VAC 65-11-110	Added	25:2 VA.R. 291-294	10/29/08
18 VAC 65-20 (Forms)	Amended	24:26 VA.R. 3818	--
18 VAC 65-20-10	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-15	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-60	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-120	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-130	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-151	Amended	24:22 VA.R. 3070	8/6/08
18 VAC 65-20-153	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-170	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-171	Added	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-240	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-350	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-420	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-440	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-500	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-510	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-20-590	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-20-700	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-40 (Forms)	Amended	24:26 VA.R. 3818	--

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18 VAC 70-10-10 through 18 VAC 70-10-90	Repealed	25:5 VA.R. 1100	12/10/08
18 VAC 70-11-10 through 18 VAC 70-11-110	Added	25:5 VA.R. 1100-1103	12/10/08
18 VAC 75-10-10 through 18 VAC 75-10-120	Repealed	25:2 VA.R. 294	10/29/08
18 VAC 75-11-10 through 18 VAC 75-11-110	Added	25:2 VA.R. 295-297	10/29/08
18 VAC 75-20 (Forms)	Amended	24:25 VA.R. 3632	--
18 VAC 76-20 (Forms)	Amended	24:26 VA.R. 3819	--
18 VAC 76-30-10 through 18 VAC 76-30-120	Repealed	24:25 VA.R. 3632	9/17/08
18 VAC 76-31-10 through 18 VAC 76-31-110	Added	24:25 VA.R. 3633-3635	9/17/08
18 VAC 76-40 (Forms)	Amended	24:26 VA.R. 3820	--
18 VAC 85-10-10 through 18 VAC 85-10-110	Repealed	24:26 VA.R. 3820	10/1/08
18 VAC 85-11-10 through 18 VAC 85-11-110	Added	24:26 VA.R. 3820	10/1/08
18 VAC 85-20 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-20-22	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-22	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 85-20-225	Amended	24:24 VA.R. 3367	9/3/08
18 VAC 85-20-226	Added	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-400	Amended	24:20 VA.R. 2876	7/24/08
18 VAC 85-40 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-40-55	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-40-67	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-50 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-50-35	Amended	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-59	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-50-61	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-80 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-80-10 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-26	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-26 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-40 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-45 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-50 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-61 emer	Repealed	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-65	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-80-65 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-70 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-72 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-73	Added	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-73 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-80 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-90 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-100 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-110 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-111 emer	Added	25:5 VA.R. 1108	11/1/08-10/31/09
18 VAC 85-101 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-101-25	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-40	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-50	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-55	Added	24:20 VA.R. 2880	7/24/08
18 VAC 85-101-60	Amended	24:20 VA.R. 2880	7/24/08

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-101-70	Repealed	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-145	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-101-150	Amended	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-153	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-110 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-110-35	Amended	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-145	Amended	24:24 VA.R. 3369	9/3/08
18 VAC 85-110-161	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-120 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-120-10	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-50	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-70	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-85	Amended	24:24 VA.R. 3369	9/3/08
18 VAC 85-120-90	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-95	Added	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-150	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-130 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-130-30	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 90-10-10 through 18 VAC 90-10-120	Repealed	24:25 VA.R. 3635	9/17/08
18 VAC 90-11-10 through 18 VAC 90-11-110	Added	24:25 VA.R. 3636-3639	9/17/08
18 VAC 90-20 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-20-10	Amended	24:13 VA.R. 1842	4/2/08
18 VAC 90-20-35	Amended	24:13 VA.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 VA.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-70	Amended	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 VA.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 VA.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 VA.R. 1848	4/2/08
18 VAC 90-20-160	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-230	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-271	Amended	24:21 VA.R. 2969	7/23/08
18 VAC 90-20-275	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 VA.R. 1853	4/2/08
18 VAC 90-25 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-30 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-30-10	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-10	Amended	25:5 VA.R. 1111	12/25/08
18 VAC 90-30-20	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-30	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-80	Erratum	24:18 VA.R. 2731-2732	--
18 VAC 90-30-80	Amended	24:24 VA.R. 3369	9/3/08

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18 VAC 90-30-80	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-85	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-100	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-105	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-110	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-120	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-120	Amended	25:5 VA.R. 1114	12/25/08
18 VAC 90-30-121	Added	24:10 VA.R. 1289	2/20/08
18 VAC 90-30-121	Amended	25:5 VA.R. 1114	12/25/08
18 VAC 90-30-160	Amended	24:24 VA.R. 3370	9/3/08
18 VAC 90-30-220	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-30-230	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-40 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-40-10	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-40-20	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-40	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-50	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-55	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-60	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-90	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-100	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-121	Added	25:5 VA.R. 1118	12/25/08
18 VAC 90-40-130	Amended	25:5 VA.R. 1118	12/25/08
18 VAC 90-40-140	Amended	25:5 VA.R. 1118	12/25/08
18 VAC 90-50 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-50-10	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-40	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-75	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-80	Amended	25:4 VA.R. 692	12/11/08
18 VAC 90-50-90	Amended	25:4 VA.R. 692	12/11/08
18 VAC 90-60 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-60-110	Amended	24:23 VA.R. 3216	9/4/08
18 VAC 95-20 (Forms)	Amended	24:26 VA.R. 3827	--
18 VAC 95-20-80	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-20-175	Amended	24:20 VA.R. 2887	7/24/08
18 VAC 95-20-220	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-20-230	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-30 (Forms)	Amended	24:26 VA.R. 3827	--
18 VAC 95-30-40	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-30-95	Amended	24:23 VA.R. 3219	9/4/08
18 VAC 95-30-150	Amended	24:23 VA.R. 3220	9/4/08
18 VAC 95-30-180	Amended	24:23 VA.R. 3220	9/4/08
18 VAC 105-10-10 through 18 VAC 105-10-120	Repealed	24:26 VA.R. 3828	10/1/08
18 VAC 105-11-10 through 18 VAC 105-11-110	Added	24:26 VA.R. 3828-3831	10/1/08
18 VAC 105-20 (Forms)	Amended	24:25 VA.R. 3639	--
18 VAC 105-20-75	Amended	24:22 VA.R. 3071	8/6/08
18 VAC 110-10-10 through 18 VAC 110-10-120	Repealed	25:2 VA.R. 298	10/29/08
18 VAC 110-11-10 through 18 VAC 110-11-110	Added	25:2 VA.R. 298-301	10/29/08
18 VAC 110-20 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
18 VAC 110-20-20 emer	Amended	25:3 VA.R. 464	9/23/08-9/22/09

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18 VAC 110-20-75	Amended	24:22 VA.R. 3071	8/6/08
18 VAC 110-20-220	Amended	25:4 VA.R. 694	12/11/08
18 VAC 110-20-230	Repealed	25:4 VA.R. 695	12/11/08
18 VAC 110-20-321	Added	24:8 VA.R. 986	1/23/08
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 VA.R. 986-987	1/23/08
18 VAC 110-20-530	Amended	24:16 VA.R. 2265	5/14/08
18 VAC 110-30 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-50-10	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-20 emer	Amended	25:3 VA.R. 466	9/23/08-9/22/09
18 VAC 110-50-160	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-180	Added	24:10 VA.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 VA.R. 1292	2/20/08
18 VAC 112-10-10 through 18 VAC 112-10-120	Repealed	25:1 VA.R. 61	10/15/08
18 VAC 112-11-10 through 18 VAC 112-11-110	Added	25:1 VA.R. 62-64	10/15/08
18 VAC 112-20 (Forms)	Amended	24:26 VA.R. 3831	--
18 VAC 112-20-81 emer	Added	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-90 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-130 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-131 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-150 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 115-10-10 through 18 VAC 115-10-120	Repealed	24:26 VA.R. 3832	10/1/08
18 VAC 115-11-10 through 18 VAC 115-11-110	Added	24:26 VA.R. 3832-3835	10/1/08
18 VAC 115-20 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-20-10	Amended	24:24 VA.R. 3387	9/3/08
18 VAC 115-20-45	Amended	24:24 VA.R. 3387	9/3/08
18 VAC 115-20-49	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-51	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-52	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-120	Repealed	24:24 VA.R. 3390	9/3/08
18 VAC 115-30 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-30-150	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-40 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-50 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-50-10	Amended	24:24 VA.R. 3390	9/3/08
18 VAC 115-50-40	Amended	24:24 VA.R. 3390	9/3/08
18 VAC 115-50-55	Amended	24:24 VA.R. 3391	9/3/08
18 VAC 115-50-60	Amended	24:24 VA.R. 3391	9/3/08
18 VAC 115-60 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-60-10	Amended	24:24 VA.R. 3392	9/3/08
18 VAC 115-60-50	Amended	24:24 VA.R. 3393	9/3/08
18 VAC 115-60-70	Amended	24:24 VA.R. 3393	9/3/08
18 VAC 115-60-80	Amended	24:24 VA.R. 3394	9/3/08
18 VAC 120-10-100 through 18 VAC 120-10-180	Repealed	24:26 VA.R. 3835	10/2/08
18 VAC 120-11-10 through 18 VAC 120-11-110	Added	24:26 VA.R. 3836-3838	10/2/08
18 VAC 125-10-10 through 18 VAC 125-10-120	Repealed	25:4 VA.R. 699	11/26/08
18 VAC 125-11-10 through 18 VAC 125-11-110	Added	25:4 VA.R. 699-702	11/26/08
18 VAC 125-20 (Forms)	Amended	25:1 VA.R. 66	--

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 125-20-170	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 125-30 (Forms)	Amended	25:1 VA.R. 66	--
18 VAC 125-30-120	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 130-20-10	Amended	24:23 VA.R. 3225	9/1/08
18 VAC 130-20-70	Amended	24:23 VA.R. 3229	9/1/08
18 VAC 130-20-180	Amended	24:23 VA.R. 3229	9/1/08
18 VAC 130-20-200	Amended	24:23 VA.R. 3231	9/1/08
18 VAC 130-20-230	Amended	24:23 VA.R. 3231	9/1/08
18 VAC 135-20-10	Amended	24:11 VA.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 VA.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-101	Added	24:11 VA.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-160	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 VA.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 VA.R. 1420	4/1/08
18 VAC 135-60-60	Amended	24:9 VA.R. 1230	3/1/08
18 VAC 140-10-10 through 18 VAC 140-10-120	Repealed	24:25 VA.R. 3641	9/17/08
18 VAC 140-11-10 through 18 VAC 140-11-110	Added	24:25 VA.R. 3641-3644	9/17/08
18 VAC 140-20 (Forms)	Amended	25:1 VA.R. 67	--
18 VAC 140-20-10	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-40	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-50	Amended	24:23 VA.R. 3234	9/4/08
18 VAC 140-20-50	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-51	Added	25:4 VA.R. 705	11/26/08
18 VAC 140-20-60	Amended	25:4 VA.R. 705	11/26/08
18 VAC 140-20-70	Amended	24:23 VA.R. 3235	9/4/08
18 VAC 140-20-105	Amended	24:20 VA.R. 2890	7/24/08
18 VAC 140-20-105	Amended	25:4 VA.R. 706	11/26/08
18 VAC 140-20-140	Repealed	25:4 VA.R. 707	11/26/08
18 VAC 140-20-150	Amended	25:4 VA.R. 707	11/26/08
18 VAC 140-20-160	Amended	25:4 VA.R. 709	11/26/08
18 VAC 150-10-10 through 18 VAC 150-10-120	Repealed	25:1 VA.R. 68	10/15/08
18 VAC 150-11-10 through 18 VAC 150-11-110	Added	25:1 VA.R. 68-71	10/15/08
18 VAC 150-20 (Forms)	Amended	24:26 VA.R. 3838	--
18 VAC 150-20-135	Amended	24:21 VA.R. 2969	7/23/08
18 VAC 160-10-10 through 18 VAC 160-10-90	Repealed	25:4 VA.R. 709	11/26/08
18 VAC 160-11-10 through 18 VAC 160-11-110	Added	25:4 VA.R. 709-712	11/26/08
Title 19. Public Safety			
19 VAC 15-10-10 through 19 VAC 15-10-50	Repealed	25:5 VA.R. 1118	12/10/08
19 VAC 15-11-10 through 19 VAC 15-11-110	Added	25:5 VA.R. 1119-1121	12/10/08

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19 VAC 30-10-10 through 19 VAC 30-10-40	Repealed	24:26 VA.R. 3839	10/1/08
19 VAC 30-11-10 through 19 VAC 30-11-110	Added	24:26 VA.R. 3839-3842	10/1/08
19 VAC 30-20-115	Added	24:11 VA.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 VA.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 VA.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 VA.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 VA.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 VA.R. 997	3/1/08
19 VAC 30-70-80	Amended	24:8 VA.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 VA.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 VA.R. 1001-1070	3/1/08
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
Title 20. Public Utilities and Telecommunications			
20 VAC 5-315-10	Amended	24:26 VA.R. 3845	8/25/08
20 VAC 5-315-20	Amended	24:26 VA.R. 3845	8/25/08
20 VAC 5-315-40	Amended	24:26 VA.R. 3846	8/25/08
20 VAC 5-315-50	Amended	24:26 VA.R. 3847	8/25/08
Title 21. Securities and Retail Franchising			
21 VAC 5-20-280	Amended	24:21 VA.R. 2971	7/1/08
21 VAC 5-80-10	Amended	24:21 VA.R. 2976	7/1/08
21 VAC 5-80-200	Amended	24:21 VA.R. 2977	7/1/08
21 VAC 5-110-10	Amended	24:21 VA.R. 2983	7/1/08
21 VAC 5-110-20	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-30	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-40	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-50	Amended	24:21 VA.R. 2985	7/1/08
21 VAC 5-110-55	Added	24:21 VA.R. 2985	7/1/08
21 VAC 5-110-60	Amended	24:21 VA.R. 2986	7/1/08
21 VAC 5-110-65	Amended	24:21 VA.R. 2987	7/1/08
21 VAC 5-110-70	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-75	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-80	Amended	24:21 VA.R. 2989	7/1/08
21 VAC 5-110-90	Repealed	24:21 VA.R. 2992	7/1/08
21 VAC 5-110-95	Added	24:21 VA.R. 2992	7/1/08
Title 22. Social Services			
22 VAC 5-10-10 through 22 VAC 5-10-110	Repealed	25:5 VA.R. 1122	1/1/09
22 VAC 5-11-10 through 22 VAC 5-11-110	Added	25:5 VA.R. 1122-1125	1/1/09
22 VAC 5-30-10 through 22 VAC 5-30-60	Added	24:25 VA.R. 3665-3669	1/1/09
22 VAC 15-10-10 through 22 VAC 15-10-70	Repealed	25:4 VA.R. 712	1/1/09
22 VAC 15-11-10 through 22 VAC 15-11-110	Added	25:4 VA.R. 713-715	1/1/09
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
22 VAC 30-10-10	Amended	24:22 VA.R. 3076	8/8/08
22 VAC 30-10-10	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-20	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-20	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-40	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-40	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-50	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-50	Repealed	25:1 VA.R. 71	10/15/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 30-10-60	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-11-10 through 22 VAC 30-11-110	Added	25:1 VA.R. 72-74	10/15/08
22 VAC 40-11-10 through 22 VAC 40-11-70	Repealed	25:1 VA.R. 74	1/1/09
22 VAC 40-12-10 through 22 VAC 40-12-110	Added	25:1 VA.R. 74-78	1/1/09
22 VAC 40-151-10 through 22 VAC 40-151-1020	Added	25:3 VA.R. 482-512	1/1/09
22 VAC 40-470-10	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-690-20	Amended	24:24 VA.R. 3420	10/1/08
22 VAC 40-690-30	Amended	24:24 VA.R. 3420	10/1/08
22 VAC 40-690-40	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-690-55	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-690-65	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-705-10 emer	Amended	24:14 VA.R. 1987	3/1/08-2/28/09
22 VAC 40-705-30 emer	Amended	24:14 VA.R. 1990	3/1/08-2/28/09
22 VAC 45-11-10 through 22 VAC 45-11-90	Repealed	25:5 VA.R. 1125	12/1/08
22 VAC 45-12-10 through 22 VAC 45-12-110	Added	25:5 VA.R. 1125-1128	12/1/08
Title 23. Taxation			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 VA.R. 1520-1521	4/19/08
23 VAC 10-10-10 through 23 VAC 10-10-80	Repealed	25:4 VA.R. 730	1/9/09*
23 VAC 10-10-80	Amended	24:12 VA.R. 1521	4/19/08
23 VAC 10-10-90	Repealed	24:12 VA.R. 1522	4/19/08
23 VAC 10-11-10 through 23 VAC 10-11-110	Added	25:4 VA.R. 732-735	1/9/09*
23 VAC 10-20-155	Added	24:26 VA.R. 3848	10/1/08
23 VAC 10-20 (Forms)	Amended	25:5 VA.R. 1128	--
23 VAC 10-55 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-60 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-65 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-75 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-210-20	Repealed	24:26 VA.R. 3849	10/1/08
23 VAC 10-210-170	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-210-595	Added	25:4 VA.R. 736	11/26/08
23 VAC 10-210-693	Amended	24:23 VA.R. 3240	10/6/08
23 VAC 10-210-870	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-210-4010	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-220 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-230 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-300 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-310 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-330 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-350 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-370 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-390 (Forms)	Amended	25:5 VA.R. 1130	--
23 VAC 10-500-10 through 23 VAC 10-500-820	Added	24:23 VA.R. 3253-3289	10/6/08
Title 24. Transportation and Motor Vehicles			
24 VAC 22-10-10 through 24 VAC 22-10-140	Repealed	25:4 VA.R. 752	11/26/08
24 VAC 22-11-10 through 24 VAC 22-11-110	Added	25:4 VA.R. 753-755	11/26/08
24 VAC 25-10-10	Repealed	25:3 VA.R. 519	10/13/08
24 VAC 25-20-10	Repealed	25:3 VA.R. 519	10/13/08
24 VAC 27-30-10 through 24 VAC 27-30-190	Added	25:1 VA.R. 78-89	10/15/08

* Errata 24:6

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 30-16-10	Repealed	25:3 VA.R. 520	11/12/08
24 VAC 30-72-10 through 24 VAC 30-72-170	Added	24:17 VA.R. 2458-2466	7/1/08
24 VAC 30-72-30	Erratum	24:18 VA.R. 2732	--
24 VAC 30-155-10	Amended	24:23 VA.R. 3290	7/1/08
24 VAC 30-155-40	Amended	24:23 VA.R. 3291	7/1/08
24 VAC 30-155-50	Amended	24:23 VA.R. 3292	7/1/08
24 VAC 30-155-60	Amended	24:23 VA.R. 3294	7/1/08
24 VAC 30-155-70	Amended	24:23 VA.R. 3303	7/1/08
24 VAC 30-155-80	Amended	24:23 VA.R. 3303	7/1/08
24 VAC 30-380-10	Amended	25:5 VA.R. 1130	10/22/08
24 VAC 35-10-10 through 24 VAC 35-10-70	Repealed	25:5 VA.R. 1131	12/10/08
24 VAC 35-11-10 through 24 VAC 35-11-110	Added	25:5 VA.R. 1132-1134	12/10/08

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF LONG-TERM CARE ADMINISTRATORS

Agency Decision

Title of Regulation: **18VAC95-30. Rules Governing the Practice of Assisted Living Facility Administrators.**

Statutory Authority: §§ 54.1-2400 and 54.1-3102 of the Code of Virginia.

Name of Petitioner: Stuart Lovelace.

Nature of Petitioner's Request: To eliminate the requirement for a national examination for licensure of assisted living facility administrators and replace it with a state examination.

Agency Decision: Request denied.

Statement of Reasons for Decision: The board voted to deny the petition and affirm its position that the test for Assisted Living/Residential Care given by the National Association of Long Term Care Administrator Boards is the necessary measure of competency for assisted living administrator licensure. Development of a Virginia-only competency exam would be extremely expensive and would result in much higher costs for applicants. The current examination test one's knowledge of the assisted living practice to ensure residents are receiving adequate care. Those who have taken the examination report that it does require some study and preparation but that it is an appropriate test for assisted living. To date, there is a 94% passage rate with 139 persons having passed the exam and become licensed. Six persons failed; two of those have retaken and passed the exam.

Agency Contact: Lisa R. Hahn, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4424, FAX (804) 524-4413, or email lisa.hahn@dhp.virginia.gov.

VA.R. Doc. No. R08-16; Filed October 29, 2008, 9:45 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 1. ADMINISTRATION

DEPARTMENT OF GENERAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **1VAC30-10. Public Participation Guidelines (repealing 1VAC30-10-10 through 1VAC30-10-70).**

1VAC30-11. Public Participation Guidelines (adding 1VAC30-11-10 through 1VAC30-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: January 1, 2009.

Agency Contact: Rhonda Bishton, Regulatory Coordinator, Department of General Services, 202 N. Ninth Street, Room 209, Richmond, VA 23219, telephone (804) 786-3311, FAX (804) 371-8305, or email rhonda.bishton@dgs.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated

rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

1VAC30-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Department of General Services. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

1VAC30-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Department of General Services, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to

make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

1VAC30-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

1VAC30-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 1VAC30-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

1VAC30-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.

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3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

1VAC30-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

1VAC30-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

1VAC30-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

1VAC30-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

1VAC30-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

- 1. The agency's basic law requires the agency to hold a public hearing;
- 2. The Governor directs the agency to hold a public hearing; or
- 3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

1VAC30-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

- 1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
- 2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1417; Filed October 28, 2008, 8:06 a.m.



TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 3VAC5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing

Officers and the Adoption or Amendment of Regulations (repealing 3VAC5-10-480).

3VAC5-11. Public Participation Guidelines (adding 3VAC5-11-10 through 3VAC5-11-110).

Statutory Authority: §§ 2.2-4007.02, 4.1-103 and 4.1-111 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

Part V

Public Participation Guidelines for Adoption or Amendment of Regulations

~~3VAC5-10-480. Public participation guidelines in regulation development; applicability; initiation of rulemaking; rulemaking procedures. (Repealed.)~~

~~A. Applicability. These guidelines shall apply to all regulations subject to the Administrative Process Act that are administered by the Department of Alcoholic Beverage Control, except as provided in subsection G of this section.~~

~~B. Initiation of rulemaking (Step 1). The board shall publish notice of the commencement or initiation of any rulemaking~~

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process. Rulemaking procedures may be initiated at any time by the board. At the commencement of any rulemaking process, the board may invite proposals for regulations or regulation changes from any interested person or may limit the process to selected proposals. All initial proposals to be considered shall be in the form of a written petition for the adoption, amendment or repeal of any regulation. Petitions shall be filed with the board within any time limitation as may be specified by the board. A petition may be submitted at any time, by any person, but it shall be at the board's discretion to initiate rulemaking procedures as a result of such petition or petitions. All petitions shall be considered and responded to within 180 days. Each petition shall contain the following information, if available:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. General description of proposal, with recommendations for adoption, amendment or repeal of specific regulation(s);
4. Why is change needed? What problem is it meant to address?;
5. What is the anticipated effect of not making the change?;
6. Estimated costs or savings, or both, to regulated entities, the public, or others incurred by this change as compared to current regulations;
7. Who is affected by recommended change? How affected?;
8. Draft language; and
9. Supporting documents.

C. Notices in general.

1. Mailing list. The secretary to the board shall prepare a general mailing list of those persons and organizations who have demonstrated an interest in specific regulations in the past through the filing of petitions, written comments or attendance at public hearings. The mailing list will be updated at least every two years, and a current copy will be on file in the office of the secretary to the board. Periodically, but not less than every two years, the board shall publish in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, and in such other newspapers in the Commonwealth as the board may determine, a request that any individual or organization interested in participating in the development of specific rules and regulations so notify the board. Any persons or organizations identified in this process will be placed on the general mailing list. Persons interested in the board's regulations may also register to receive notices through the Virginia Regulatory Town Hall.

2. Notice to listed persons. Each person on the general mailing list shall be sent, by U.S. mail or electronic mail using the agency mailing list feature of the Virginia Regulatory Town Hall, a copy of all notices pertaining to rulemaking for the board as are published in the Virginia Register. In lieu of such copy, the board may notify those on the mailing list of the publication of the notice and, if lengthy, offer to forward a copy upon payment of reasonable costs for copying and mailing.

D. Initial requirement for public comment; participation in regulation development; ad hoc panels; public meetings (Step 2).

1. Notice of Intended Regulatory Action. The board shall solicit comments, data, views and argument from the public as to each regulation proposal and shall encourage participation of interested persons in the development of regulations and draft language. As to each petition or proposal, the board shall publish a Notice of Intended Regulatory Action. The notice shall specify the date, time and place of any public meeting to consider the proposals, either with or without an ad hoc advisory panel, or with or without consultation with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations and shall contain the following information:

- a. Subject of the proposed action;
- b. Identification of the entities that will be affected;
- c. Discussion of the purpose of the proposed action and the issues involved;
- d. Listing of applicable laws or regulations;
- e. Name of individual, group or entity proposing regulation;
- f. Request for comments, data, views or argument from interested parties, either orally or in writing, to the board or its specially designated subordinate;
- g. Notification of date, time and place of any scheduled public meeting on the proposal; and
- h. Name, address and telephone number of staff person to be contacted for further information.

2. The board shall disseminate the Notice of Intended Regulatory Action to the public via:

- a. Publication in The Virginia Register of Regulations;
- b. Distribution by mail or electronic mail to persons on the general mailing list pursuant to subsection C of this section;
- c. Press release to media throughout the Commonwealth if a public meeting is scheduled; and
- d. Posting on the Virginia Regulatory Town Hall.

~~3. The board may form an ad hoc advisory panel or consult with groups and individuals who have expressed an interest in participating in the development of specific rules and regulations to consider regulation proposals, to make recommendations, assist in development of draft language, and provide such advice as the board may request. The board may request the panel or interested groups and individuals to participate in a meeting to develop or consider regulation proposals.~~

~~The board's use of ad hoc advisory panels or consultation with interested groups and individuals shall be based on, but not limited to, the following criteria: The proposed regulation's:~~

- ~~a. Complexity;~~
- ~~b. Controversy;~~
- ~~c. Degree of substantive change;~~
- ~~d. Impact on the board, its licensees, and the public; or~~
- ~~e. Enactment required by state or federal mandate.~~

~~4. The board may conduct a regulation development public meeting to receive views and comments and answer questions of the public.~~

~~E. Notice of public hearing and publication of proposals pursuant to § 2.2-4007 of the Virginia Administrative Process Act (Step 3).~~

~~1. The board shall consider the comments, recommendations, reports and other input from the public, industry and other interested persons received during the initial steps of public participation in the regulation development process, including comments, views, data and argument received during any public meeting, before publishing a final proposed draft regulation and initiating the proceedings required by the Administrative Process Act.~~

~~2. The board shall comply with the notice, publication and other requirements of § 2.2-4007 of the Code of Virginia, and final proposed drafts to adopt, amend or repeal regulations, together with any other required statements, shall be published in the Virginia Register, in a newspaper published and of general circulation in the City of Richmond, in such other newspapers in the Commonwealth as the board may determine, and on the Virginia Regulatory Town Hall. In addition, the board shall comply with the provisions of subdivision C 2 of this section. Such notice shall solicit comments, views, data and argument from the public and shall specify the date, time and place of any scheduled public hearing to consider adoption of such regulation proposals.~~

~~F. Public hearing (Step 4). The board shall conduct a public hearing to consider adoption of all proposed regulations. At such hearing, the board may receive and consider such~~

~~additional written and verbal comment as it deems appropriate prior to any final vote.~~

~~G. Notwithstanding the foregoing provisions, the board may elect to dispense with any required public participation or other required procedure to the extent authorized by the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).~~

CHAPTER 11
PUBLIC PARTICIPATION GUIDELINES

Part I
Purpose and Definitions

3VAC5-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Alcoholic Beverage Control Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

3VAC5-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Alcoholic Beverage Control Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to

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make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

3VAC5-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

3VAC5-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 3VAC5-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

3VAC5-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropounded regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

3VAC5-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

3VAC5-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical

assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

3VAC5-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

3VAC5-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

3VAC5-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

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1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

3VAC5-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1425; Filed October 24, 2008, 9:43 a.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF CONSERVATION AND RECREATION

Final Regulation

REGISTRAR'S NOTICE: The following regulation filed by the Department of Conservation and Recreation is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 1 of the Code of Virginia, which excludes agency orders or regulations fixing rates or prices. The Department of Conservation and Recreation will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 4VAC5-36. Standard Fees for Use of Department of Conservation and Recreation Facilities,

Programs, and Services (amending 4VAC5-36-50, 4VAC5-36-60, 4VAC5-36-70, 4VAC5-36-90, 4VAC5-36-100, 4VAC5-36-110, 4VAC5-36-120, 4VAC5-36-140, 4VAC5-36-150, 4VAC5-36-180, 4VAC5-36-200, 4VAC5-36-210; adding 4VAC5-36-115).

Statutory Authority: § 10.1-104 of the Code of Virginia.

Effective Date: January 1, 2009.

Agency Contact: David C. Dowling, Policy, Planning, and Budget Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

Summary:

The amendments include revised parking and launch fees (4VAC5-36-50), admission fees (4VAC5-36-60), swimming fees (4VAC5-36-70), camping fees (4VAC5-36-90), cabin fees (4VAC5-36-100), picnic shelter fees (4VAC5-36-110), amphitheater and gazebo fees (4VAC5-36-120), interpretive canoe, boat, and paddleboat fees (4VAC5-36-140), interpretive and educational tours and program fees (4VAC5-36-150), state park performing arts events fees (4VAC5-36-180), miscellaneous rental fees (4VAC5-36-200), and center and meeting facility fees (4VAC5-36-210). A new section on horse arena fees (4VAC5-36-115) was added to reflect the new facilities that have been constructed.

Increases to these rates and prices represent changes to maintain fair market value, the addition of new facilities and offerings, updates to ensure consistency with the private sector, and revisions to reflect private concessionaires' new seasonal prices.

4VAC5-36-50. Parking and launch fees.

PARKING FEES (NONTAXABLE)

	WEEKDAYS	WEEKENDS
Daily Parking for Passenger Vehicles: Applies to cars, trucks, vans (up to 15 passenger), and motorcycles.		
All parks unless listed below.	\$2.00	\$3.00
Parks under construction and having only limited facilities and services.	\$2.00	\$2.00

Regulations

Fairy Stone, Raymond R. "Andy" Guest Jr. Shenandoah River, Smith Mountain Lake, Claytor Lake, Kiptopeke, Westmoreland, Mason Neck, Sky Meadows, Chippokes	\$3.00	\$4.00	New River Trail		
			First Landing, Kiptopeke, Lake Anna, Pocahontas, Westmoreland	\$15	\$15
			Natural Area Preserve Parking Fees for any Vehicle: The department may charge these fees at any Natural Area Preserve.	\$2.00	\$2.00
Leesylvania, First Landing, Lake Anna, Pocahontas	\$4.00	\$5.00	Boat Launch Fees: Required to use park boat ramps on bodies of water where motorboats are permitted. Required for all vehicles using York River Croaker Landing/Pier Area. May not apply to small "car-top" launch facilities (facilities at which boats may only be launched by hand carrying them to the water). The fee is normally added to the parking fee to create a combined park/launch payment.		
York River Croaker Landing/Pier Area (also requires boat launch fee for all vehicles)	\$3.00	\$3.00			
Horse Trailer Parking Fee (also requires vehicle parking fee.) All parks unless listed below.	\$3.00 per trailer	\$3.00 per trailer			
Lake Anna	\$4.00 per trailer	\$4.00 per trailer			
Surcharge for additional horse in same trailer.	\$2.00 per horse	\$2.00 per horse	Daily Launch Fees: All Seasons		
Other Trailer Parking Fee: Applies to other trailers not covered by camping, horse trailer and boat launch fee. (Add to daily parking fee.)	\$2.00 per trailer	\$2.00 per trailer	All parks unless listed below.	\$3.00	\$3.00
			Claytor Lake	\$2.00	\$2.00
Daily Bus Parking: All Seasons. Applies to vehicles with 16 or more passenger capacity.			First Landing, Kiptopeke (with Marine Fishing License), Lake Anna	\$4.00	\$4.00
			Kiptopeke (without Marine Fishing License), Leesylvania	\$8.00	\$8.00
All parks unless listed below.	\$10	\$10	Surcharge for second boat on same trailer: jet ski	\$2.00	\$2.00
Claytor Lake, Hungry Mother, Leesylvania, Mason Neck,	\$12	\$12			

Regulations

Overnight parking at boat launch: where available	\$10	\$10	Golden Disability Pass: Available to persons with disabilities as verified by U.S. Social Security Administration's (SSA) "Benefit Verification Letter." Pass remains in effect unless SSA withdraws eligibility.	No Charge
Camper's Boat Launch Fee Kiptopeke: Does not apply if camper parks trailer at campsite.	\$3.00	\$3.00		Annual Horse Trailer-Vehicle Pass: 12-months from date of purchase admission and park pass, including horse trailer, good at all parks.
<u>Boat Tournament Fee for Fishing Tournaments: Registration fee is based on the number of boats registered and is nonrefundable regardless of number that actually participates. This fee is in addition to the applicable daily launch fee.</u>	<u>No charge</u>	<u>\$2.00 per boat</u>	<u>Annual Horse Trailer-Vehicle Pass: Pocahontas and New River Trail Only. Valid only in combination with purchase of \$30 horse arena annual pass.</u>	<u>\$70</u>
			Annual Horse Trailer-Vehicle Pass: Occoneechee and Staunton River Only	\$50
			Annual and Lifetime Park/Launch Fees:	
		FEE	Lifetime Naturally Yours Passport Plus for Boaters: Lifetime admission, parking, and launch pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	
Annual and Lifetime Parking Fees:				
Lifetime Naturally Yours Passport Plus: Lifetime admission and parking pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.				
Age up to 40		\$303	Age up to 40	\$606
Age 41-45		\$273	Age 41-45	\$545
Age 46-50		\$242	Age 46-50	\$485
Age 51-55		\$212	Age 51-55	\$424
Age 56-61		\$182	Age 56-61	\$364
Senior Lifetime Naturally Yours Passport Plus (Age 62 or older): See Lifetime Naturally Yours Passport Plus above.		\$110	Senior Lifetime Naturally Yours Passport Plus for Boaters (Age 62 or older): See Lifetime Naturally Yours Passport Plus for Boaters above.	\$314
Naturally Yours Passport Plus: 12-month from date of purchase admission and parking pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.		\$61	Naturally Yours Passport Plus for Boaters: 12-month from date of purchase admission, parking, and launch pass to all state parks, plus 10% discount on camping, all state park merchandise, equipment rentals, and shelter rentals.	\$152
Naturally Yours Parking Passport: 12-month from date of purchase admission and parking pass to park of purchase.		\$36	Park/Launch Passport:	
Senior Naturally Yours Passport Plus: See Naturally Yours Passport Plus above.		\$33	12-month from date of purchase admission, parking, and launch pass to all state parks including Leesylvania.	\$128
Senior Naturally Yours Parking Passport: See Naturally Yours Parking Passport above.		\$22	12-month from date of purchase admission, parking, and launch pass to First Landing, Kiptopeke, or Lake Anna. Good only at park of purchase.	\$97

Regulations

12-month from date of purchase admission, parking, and launch pass to park of purchase other than Leesylvania, First Landing, Kiptopeke, or Lake Anna.	\$79	Sky Meadows: Strawberry Festival.	
		Advance payment	\$15 per vehicle
		Day of Event	\$20 per vehicle
Senior Naturally Yours Passport Plus for Boaters: Annual permit for all parks including Leesylvania.	\$121	Sky Meadows: Virginia Scottish Games	
Senior Park/Launch Passport:		Vehicle Parking	\$5.00 per vehicle
12-month from date of purchase admission, parking, and launch pass to all state parks including Leesylvania.	\$109	Per Person Admission	\$15 per person \$5.00 per person, active military and active military family members \$5.00 per child 6-12 years Children under 6 free
12-month from date of purchase admission, parking, and launch pass to First Landing, Kiptopeke, or Lake Anna. Good only at park of purchase.	\$79		
12-month from date of purchase admission, parking, and launch pass to park of purchase other than Leesylvania, First Landing, Kiptopeke, or Lake Anna.	\$66	New River Trail: Wythe County Heritage Day. Grayson Highlands Fall Festival. Hungry Mother Arts and Crafts Festival.	\$6.00 per vehicle
Buggs Island Lake Special Annual Pass: Good only at Occoneechee and Staunton River State Parks.	\$50	Claytor Lake Arts and Crafts Festival: Free parking with canned food donation on designated day.	\$5.00 per vehicle \$9.00 per two-day pass \$12 per three-day pass
Leesylvania Annual Overnight Boating/Parking Pass.	\$67		
Disabled Visitor Annual Boat Launch Pass (in addition to disabled tags).	\$44	Kiptopeke: Eastern Shore Birding Festival.	Parking Fee waived to registered festival guests; otherwise standard fees apply
Parks and Trails Passport:			
In conjunction with the purchase of an annual parking pass	\$11		
Without the purchase of an annual parking pass	\$17	Smith Mountain Lake: special park/launch rate for boaters participating in fishing tournaments if the tournament sponsor has also rented the Tournament Headquarters Building.	\$5.00 per vehicle/ boat combination
Special Event Fees:	EVENT FEE		
Standard Special Event Parking Fee: Applies to all parks and events that utilize parking fees unless noted below.	\$10 per vehicle	Standard Special Event Per Person Entrance Fee: Applies to all parks and events that utilize per person admission fees unless noted below.	\$4.00 per adult \$3.00 per child, 6 through 12 years Children under 6 free
Community Event Fee: May be used by any park as a condition of a Special Use Permit for a community event provided by a nonprofit group or organization or government agency or entity.	\$1.00 per vehicle	Sailor's Creek Battlefield: Battle of Sailor's Creek Reenactment.	\$5.00 per person Children under 6 free \$10 maximum per vehicle \$50 per bus (16 passenger +)
James River: James River Raft Race	\$5.00 per vehicle		

Regulations

Chippokes Plantation Steam and Gas Engine Show.	\$5.00 per person Children under 12 free
Chippokes Plantation Christmas.	\$5.00 per person
Chippokes Gospel Explosion	\$10 per person \$7.00 for advance ticket purchase Children under 12 free
<u>Chippokes Pork, Peanut & Pine Festival</u>	<u>\$5 per person</u> <u>Children under 10 free</u>
Grayson Highlands Wayne C. Henderson Music Festival.	\$10 per person Children under 12 free
York River Estuaries Day.	\$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Natural Tunnel Special Event Parking Fee.	\$2.00 per person \$6.00 per vehicle
Occoneechee Pow Wow	\$5.00 per person Seniors (62 and over) free Children under 4 free
Occoneechee Pow Wow School Groups	\$4.00 per student Teachers and Chaperones free

Notes on parking fees:

- Weekend rates apply on Memorial Day, Fourth of July, and Labor Day holidays.
- No parking fee is required for up to two vehicles per campsite and per cabin. Vehicles in excess of two shall pay the prevailing daily parking fee for each day that the vehicle is parked in the park.
- Except as otherwise noted, boat launching shall be free for up to one boat per vehicle per campsite or cabin.
- Parking fees are waived for any vehicle displaying disabled license plates or temporary disabled parking identification issued by any state or the federal government. However, the fee for any additional types of trailers, the boat launch fee or the portion of any combined parking-launching fee that applies to boat launching shall be collected from such vehicles. Additionally, the price for annual passes and lifetime passes that include boat launching for qualified disabled individuals shall be

calculated by subtracting the applicable parking pass fee from the park/launch pass fee.

5. Parking fees are waived for any vehicle occupied solely by students and/or teachers and/or assisting personnel participating in an official activity of a bona fide school, home school, or institution of higher learning. Parks may require that individuals in vehicles other than those marked as a school bus verify their official activity by letter from the school or approved field trip form, or in the case of home school groups, proof of home school status such as current ID card from a state or national home school organization (HEAV, HSLDA, etc.) or a copy of the letter from the school district that acknowledges "Notice of Intent" to home school for that school year.

6. Parking fees are waived for official vehicles of federal, state, and local governments while on official business; vehicles making deliveries to the park; contractor and business vehicles performing work in the park; and emergency vehicles while conducting official business, including training.

7. Parking fees are waived for park employees during time of employment, including family and household members of staff occupying staff residences, visitors to staff residences, and park volunteers entering the park to perform volunteer duties.

8. Parking fees may be waived for vehicles conducting research or collecting activities provided such waiver is included in the language of the Research and Collection Permit as required in 4VAC5-30-50.

9. The period covered by a daily parking fee shall be midnight to midnight. Park guests utilizing overnight parking when and where available (e.g., backpackers, overnight fishermen, etc.) will be required to pay the applicable daily parking fee for each calendar day that their vehicle is in the parking lot (partial days included).

10. Annual permits shall be valid for 12 months from the date of purchase, unless otherwise noted.

11. Parking fees are waived for visitors entering the park for the sole purpose of dining at the park restaurant at Douthat and Hungry Mother State Parks.

12. Parking fees are waived at state parks for participants in Walk for Parks, Fall River Renaissance, Envirothons, March for Parks, Operation Spruce-Up Day, Stewardship Virginia, National Trails Day, and other park-sanctioned public service events as approved by the director.

13. Daily parking fees are reduced to \$1.00 for vehicles occupied by participants in fund-raising events sponsored by nonprofit organizations (Walk-A-Thons, etc.) provided the sponsor has obtained a special use permit from the park that contains provisions for the identification of participants in the event.

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14. Parking fees shall be waived for persons using park roads to gain legal access to their private residence and guests to such residences; and for vehicles passing through, but not stopping in, a park on a public roadway.

15. Revenue collected from special event parking and/or admission fees may be divided between the park and the event sponsor if so designated and approved in the special event permit following a determination made by the director that the revenue split is in the benefit of the Commonwealth.

16. Annual Park/Launch pass also covers the park entrance or parking fee for horse trailers or other allowable trailers. Annual and Lifetime parking-only passes do not include trailers.

17. Parking fees are waived for service vehicles such as tow trucks when entering the park to service a visitor vehicle.

18. Parking fees are waived for visitors entering the park to attend a performance by a U.S. military band if this is a required condition for the band's performance.

19. Parking fees are included in the rental fees for meeting facilities, up to the capacity of the facility and provided that this waiver of fee is included in the rental agreement for the facility.

20. Parking fees are waived for a period of up to 15 minutes for persons entering the park to deposit materials in community recycling collection containers.

21. Parking fees are waived for vehicles occupied entirely by persons attending fee interpretive programs.

22. Annual parking passes that do not include boat launch require payment of daily launch fee if launching a boat at any park or for all vehicles using Croaker Landing/Pier Area at York River State Park.

23. Annual parking pass holders are not guaranteed the parking privileges of the pass should parking places be unavailable.

24. Parking fees are waived at Mason Neck during the park's annual Elizabeth Hartwell Eagle Festival.

4VAC5-36-60. Admission fees.

ADMISSION FEES (NONTAXABLE)

	DAILY ADMISSION PER PERSON (Weekdays and Weekends unless otherwise noted.)	ANNUAL PASS (Good for 12 months from date of purchase.)
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Shot Tower	Free	NA
Southwest VA Museum	\$1.50 (Groups of 10 or more any age)	\$3.00 (age 6 through 12) per year
	\$2.00 (Ages 6 through 12)	\$5.00 (age 13 and over) per year
	\$3.00 (Age 13 and up)	\$15 (family: up to 2 adults and 2 children) per year
Kiptopeke Fishing Pier Fishing Fee	\$1.00 (Age 6 through 12) \$3.00 (Age 13 and over)	NA
Kiptopeke Fishing Pier Fishing Fee: Coupon book good for 10 visits	\$20 per 10 Passes	NA
Annual Night Fishing: All parks where available (also requires parking fee)	\$15 per person per year	
Late Night Fishing: All parks where available (also requires parking fee)	\$3.00 per person per night	

	ADMISSION
Natural Tunnel Chairlift:	
Children under age 6	Free
Round trip per person	\$3.00
One-way per person	\$2.00
Group Rate Round Trip per person (10 or more)	\$2.00
Season Pass	\$20
Daily Pass (Good for unlimited trips on date of issue, good for one person only)	\$6.00
Archery Range: All parks where available; per person user fee	\$2.00 per day (over 15) \$1.00 per day (under 15) \$15 per year (any age)
New River Challenge Registration Fees	

Regulations

Early Registration Fee:	\$35 per person \$90 per team
Late Registration Fee:	\$45 per person \$110 per team
James River: River Raft Race Registration	\$15 per person
<u>Pocahontas & New River Trail Horse Show Admission</u>	<u>\$5 per person</u> <u>Children 12 & under free</u>
Park Sponsored Special Event Vendor Fees. All parks where available unless otherwise noted.	\$125 per merchandise vendor \$150 per food vendor \$50 late fee
<u>Oconeechee Pow Wow</u>	<u>\$150 per merchandise vendor</u> <u>\$175 per food vendor</u>
Mason Neck Harvest Festival Event.	\$50 per vendor

Pocahontas	Under age 3 Free \$5.00 (Age 3 through 12) \$6.00 (Age 13 and over)	Under age 3 Free \$7.00 (Age 3 through 12) \$8.00 (Age 13 and over)
Group campers utilizing primitive group camps. All parks where available unless otherwise noted.	\$1.00 (all ages)	\$1.00 (all ages)
Pocahontas (Group Cabin Guests)	\$3.00 (all ages)	\$3.00 (all ages)
Chippokes Plantation: Recreation/Education Fun Package: Swimming, Mansion, and Farm & Forestry Museum (Memorial Day – Labor Day: Wed. – Sun.)	\$3.50 (Age 3 through 12) \$6.00 (Age 13 and over)	\$3.50 (Age 3 through 12) \$6.00 (Age 13 and over)
Deposit on all locker keys: Refunded when key is returned.	\$2.00 each	
Swimming Coupon Book: (Age 3 and over). All parks where available unless otherwise noted.	\$18 \$21 per 10 coupons \$35 \$40 per 20 coupons	
Staunton River, Natural Tunnel, and Westmoreland	\$24 \$28 per 10 coupons \$45 \$53 per 20 coupons	
Pocahontas	\$35 \$45 per 10 coupons \$68 \$86 per 20 coupons	
	<u>WEEKDAYS</u>	<u>WEEKENDS</u>
Group Swimming: per person (10 persons or more). All parks where available unless otherwise noted, except Pocahontas .	\$1.50 (Age 3 through 12) \$2.50 (Age 13 and over)	\$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Staunton River, Natural Tunnel, and Westmoreland Group Swimming (20 persons or more). Five-day advanced registration required.	\$2.50 (all ages)	\$3.50 (all ages)

Notes on admission/entrance fees:

1. Fees are waived at Natural Tunnel for use of the chairlift on one designated "Customer Appreciation Day" per year.
2. Museum entrance fees are waived at the Southwest Virginia Museum during the "Festival of Trees" event for members of groups who submitted trees for the display.
3. For park museums and historic features that charge an entrance fee, visitors participating in the Time Travelers program of the Virginia Association of Museums shall be charged the existing per person group rate for that facility.

4VAC5-36-70. Swimming fees.

SWIMMING (NONTAXABLE)

Daily Swimming Fees	WEEKDAYS	WEEKENDS
All parks with fee swimming areas unless noted.	Under age 3 Free \$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)	Under age 3 Free \$3.00 (Age 3 through 12) \$4.00 (Age 13 and over)
Staunton River, Natural Tunnel, and Westmoreland	Under age 3 Free \$3.00 (Age 3 through 12) \$4.00 (Age 13 and over)	Under age 3 Free \$4.00 (Age 3 through 12) \$5.00 (Age 13 and over)

Regulations

Pocahontas Group Swimming (20 persons or more). Five-day advanced registration required.	\$3.00 <u>\$4.00</u> (all ages)	<u>\$5.00 (all ages)</u>
Season Swimming Permit: All parks where available unless otherwise noted.	\$40 (Age 3 through 12) \$50 (Age 13 and over)	
Staunton River, <u>Natural Tunnel, and Westmoreland</u>	\$50 (Age 3 through 12) \$60 (Age 13 and over)	
Pocahontas	\$60 (Age 3 through 12) \$70 (Age 13 and over)	
After-Hours Exclusive Use of Pool or Swimming Area: All parks where available. Requires prior reservation. Rental period of approximately 1-2 hours, depending upon operating schedule and amount of available daylight. Cancellation fee charged if reservation is cancelled less than 3 days before the date of event unless cancellation is for inclement weather or cancelled by the park.	\$100 (up to 25 persons) \$125 (26 to 50 persons) \$175 (51 to 75 persons) \$200 (76 to 100 persons) \$35 to open food concessions with rental \$50 cancellation fee	
Swimming lessons. All parks where available unless otherwise noted. Package of eight 45-minute lessons (includes parking)	\$30 per person \$25 per person if two or more from same family	

Notes on swimming fees:

1. Nonswimming adults in street clothes admitted to swimming areas free when supervising children age 12 and under.
2. Rain check Policy for Swimming: All state parks will issue a rain check, good for a period of 12 months from the date of issue, to any paying customer (does not apply to free swimming vouchers) if the swimming area is forced to close for 40 minutes or more due to inclement weather. Rain checks may be issued only to patrons present at the swimming area at the time of closure.
3. A full refund is available for a group reservation only if the park or swimming area contractor is notified three days in advance of the time of the reservation. In the event that the group is unable to complete their reservation due to inclement weather, rain checks will be issued to the individual members of the group in the same manner as other park patrons.

4. All Season Swimming Permits include parking during the swimming season only.

5. Weekend rates apply on Memorial Day, Fourth of July, and Labor Day holidays.

4VAC5-36-90. Camping fees.

CAMPING FEES (TAXABLE, Price here does not include tax)

Camping fees include free use of dump station and free swimming and boat launching for members of the camping party during their stay at the property, when and where available, except that at Kiptopeke State Park guest is subject to applicable launch fee unless the trailer is returned to the campsite immediately after launching. The number of campers per campsite is limited to six individuals except when all campers are members of the same household.	ALL SEASONS (Per site fees)
Standard Sites: No hookup; access to bathhouse and restrooms.	
All parks with standard sites unless noted below.	\$16 per night
Chippokes Plantation, Hungry Mother, Grayson Highlands, Staunton River, Westmoreland, Occoneechee (nonwaterfront), Claytor Lake, Raymond R. "Andy" Guest, Jr. Shenandoah River, Smith Mountain Lake.	\$20 per night
Occoneechee Waterfront Sites	\$23 per night
Douthat, Kiptopeke, First Landing, Lake Anna.	\$24 per night
Water and Electric Sites: Access to water and electric hookups; access to bathhouse and restrooms.	
All parks where available unless noted below.	\$22 per night
Chippokes Plantation, Claytor Lake, Douthat, Fairy Stone, Grayson Highlands, Hungry Mother, Occoneechee (nonwaterfront), Staunton River, Westmoreland, Pocahontas, Smith Mountain Lake, Belle Isle, James River.	\$25 per night

Regulations

Occoneechee Waterfront Sites	\$28 per night
Kiptopeke, First Landing, Lake Anna.	\$30 per night
Water, Electric, and Sewage Sites: Access to water, electric, and sewage hookups; access to bathhouse and restrooms.	
Kiptopeke	\$35 per night
Hungry Mother	\$28 per night
Primitive Camping Sites: primitive restrooms; no showers.	
All parks where available unless noted below.	\$11 per night
James River, Sky Meadows.	\$13 per night
Grayson Highlands: Sites with electricity (November, March and April when bathhouses are closed)	\$15 per night
New River Trail Primitive camping sites at Foster Falls and Cliffview	\$15 per night
New River Trail Water Trail Camping (no potable water)	\$12 per night
Horse Camping	
Horse Stall Fee	\$7.00 per night (Outside Stalls) \$9.00 per night (Inside Stall)
Standard Rates	
Primitive Group Camp Rental (camping in special primitive group areas) All parks where available.	
Up to 20 campers.	\$61 for entire area per night
Up to 30 campers.	\$91 for entire area per night
31 or more campers, up to maximum capacity of group camp area.	\$122 for entire area per night
Grayson Highlands: Primitive camping is available in the stable area November, March, and April.	\$15 per site per night

Special Group Camping Areas:	
Fairy Stone Group Campsites.	\$20 per site per night
Twin Lakes, Cedar Crest Group Camping Area.	\$210 for entire area per night
Chippokes Plantation: All 4 Sites; Group Rate; 24 persons maximum. Natural Tunnel Group Area. Grayson Highlands Group Area. James River Group Area. Shenandoah Group Area.	\$67 per night (only available as entire group area)
Westmoreland Group Area.	\$122 per night
Standard Buddy Sites: All parks where available unless noted below.	\$78 per night
Douthat Buddy Sites.	\$97 per night
James River Equestrian Group Area.	\$91 per night
Camping – Other Fees	
Pet Fees	\$5.00 per pet per night
Dump Station Fee: Free to state park campers during stay.	\$5.00 per use
Camping Reservation Cancellation Fee Individual Site.	\$10 per reservation
Camping Reservation Cancellation Fee Group Sites.	\$30 per reservation
Hiker or noncamper Shower Fee at Virginia State Parks.	\$5.00 per person

Notes on camping:

1. Check-out time is 3 p.m. and check-in time is 4 p.m.
2. Camping Transfer/Cancellation/Early Departure Policy.
 - a. Any fees to be refunded are calculated less the applicable cancellation fee(s).
 - b. Fees paid to the reservation center by credit card will be refunded to the original credit card charged.
 - c. Fees paid by check or money order to the reservation center, or by any method at the park, will be refunded by state check.
 - d. A customer may move a camping reservation to another date or park, referred to as a transfer, through the

reservation center only, and prior to 4 p.m. on the scheduled date of arrival. If the reservation center will not be open again prior to the start date of the reservation, transferring is not an option. There is no fee to transfer.

e. A camping reservation may be canceled until 4 p.m. on the scheduled date of arrival but campers will be charged the cancellation fee. This cancellation fee applies to each separate reservation made.

f. Once the 4 p.m. check-in time is reached on the scheduled day of arrival, any adjustment to a reservation is considered an early departure.

g. After the check-in time is reached, the first night is considered used whether the site is occupied or not.

h. There is a one-night penalty, deducted from any amount available for refund, for early departure.

3. Campers are allowed two vehicles per campsite per day without charge of a parking fee. Additional vehicles, beyond two, must pay the prevailing parking fee in effect at the park for each day that the vehicle(s) is parked in the park. The number of vehicles allowed to park on the campsite varies according to site design and size of other camping equipment. No vehicles shall park on a campsite in other than the designated area for this purpose. Camper vehicles that do not fit on the site, whether or not they require the special camper vehicle fee, must park in the designated overflow parking area.

4. Each member of the camping party, except in primitive group areas, up to the maximum allowable per site, may receive an entrance pass to the park's swimming facility on the basis of one pass per night of camping. Passes only issued during days and seasons of operation of the swimming facility and only good during the member's registered stay.

5. Damage to campsites, not considered normal wear and tear, will be billed to the person registered for the campsite on an itemized cost basis.

6. At honor collection sites, the stated camping fees on this list shall be considered as having tax included. Honor collection is defined as the payment of the camping fee on-site at the park at a nonelectronic collection point at which the payment is placed in a box or safe provided for that purpose.

4VAC5-36-100. Cabin fees.

CABIN RENTALS (TAXABLE, Price here does not include tax)

	BASE RATE		VIRGINIA RESIDENTS	
PRIME SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Efficiency	\$84	\$502	\$75	\$450
One Bedroom, Standard	\$98	\$589	\$88	\$529
One Bedroom, Waterfront or Water View	\$108	\$652	\$97	\$582
One Bedroom, Chippokes Plantation	\$113	\$686	\$104	\$617
Two Bedroom, Standard, all parks where available unless noted below	\$112	\$680	\$102	\$613
Two Bedroom, Bear Creek Lake, James River, Occoneechee, Lake Anna	\$118	\$713	\$106	\$643
Two Bedroom, Waterfront or Water View, all parks where available unless noted below	\$125	\$749	\$112	\$674
Two Bedroom, Waterfront or Water View, Bear Creek Lake, James River , Occoneechee, Lake Anna	\$130	\$784	\$118	\$706
Two Bedroom, First Landing, Chippokes Plantation	\$132	\$791	\$119	\$712
Three Bedroom, Standard, all parks where available unless noted below	\$129	\$771	\$116	\$692
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$149	\$898	\$134	\$809

Regulations

Three Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage	\$149	\$888	\$130	\$798
Hill Lodge (Twin Lakes)	\$167	\$1,002	\$150	\$902
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$301	\$1,802	\$270	\$1,622
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland)	\$354	\$2,124	\$318	\$1,913
6-Bedroom Lodge, Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake	\$371	\$2,226	\$334	\$2,004
MID-SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Efficiency	\$74	\$446	\$67	\$401
One Bedroom, Standard	\$87	\$523	\$80	\$470
One Bedroom, Waterfront or Water View	\$96	\$574	\$86	\$519
One Bedroom, Chippokes Plantation	\$94 \$101	\$548 \$611	\$83 \$93	\$494 \$549
Two Bedroom, Standard, all parks where available unless noted below	\$101	\$605	\$91	\$545
Two Bedroom, Bear Creek Lake, James River, Occoneechee, Lake Anna	\$105	\$634	\$96	\$570
Two Bedroom, Waterfront or Water View, all parks where available unless noted below	\$111	\$666	\$100	\$599

Two Bedroom, Waterfront or Water View, Bear Creek Lake, James River , Occoneechee, Lake Anna	\$117	\$697	\$104	\$627
Two Bedroom, First Landing, Chippokes Plantation	\$106 \$117	\$633 \$704	\$95 \$106	\$569 \$634
Three Bedroom, Standard, all parks where available unless noted below	\$113	\$686	\$104	\$617
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$120 \$133	\$718 \$799	\$108 \$119	\$646 \$720
Three Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage	\$126 \$133	\$752 \$790	\$113 \$116	\$677 \$710
Hill Lodge (Twin Lakes)	\$149	\$891	\$133	\$802
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$267	\$1,603	\$240	\$1,442
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland)	\$315	\$1,892	\$284	\$1,702
6-Bedroom Lodge, Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake	\$331	\$1,982	\$297	\$1,783
OFF-SEASON CABIN AND LODGE RATES				
Cabin/Lodge Type	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Efficiency	\$62	\$372	\$57	\$335
One Bedroom, Standard	\$72	\$436	\$65	\$392
One Bedroom, Waterfront or Water View	\$81	\$478	\$71	\$432

Regulations

One Bedroom, Chippokes Plantation	\$69 <u>\$84</u>	\$412 <u>\$508</u>	\$62 <u>\$77</u>	\$371 <u>\$457</u>
Two Bedroom, Standard, all parks where available unless noted below	\$84	\$504	\$75	\$454
Two Bedroom, Bear Creek Lake, James River, Occoneechee, Lake Anna	\$88	\$528	\$79	\$475
Two Bedroom, Waterfront or Water View, all parks where available unless noted below	\$92	\$554	\$83	\$499
Two Bedroom, Waterfront or Water View, Bear Creek Lake, James River , Occoneechee, Lake Anna	\$97	\$581	\$87	\$522
Two Bedroom, First Landing, Chippokes Plantation	\$80 <u>\$98</u>	\$475 <u>\$585</u>	\$71 <u>\$88</u>	\$426 <u>\$527</u>
Three Bedroom, Standard, all parks where available unless noted below	\$95	\$570	\$85	\$512
Three Bedroom, Chippokes Plantation, Bel Air Guest House	\$89 <u>\$110</u>	\$538 <u>\$664</u>	\$82 <u>\$99</u>	\$485 <u>\$597</u>
Three Bedroom, Claytor Lake, Bear Creek Lake, James River, Occoneechee, Lake Anna, Southwest Virginia Museum Poplar Hill Cottage	\$93 <u>\$110</u>	\$564 <u>\$657</u>	\$85 <u>\$96</u>	\$508 <u>\$591</u>
Hill Lodge (Twin Lakes)	\$124	\$741	\$111	\$667
Fairy Stone Lodge (Fairy Stone), Creasy Lodge (Douthat), Bel Air Mansion (Belle Isle)	\$222	\$1,332	\$201	\$1,199
Douthat Lodge (Douthat), Hungry Mother Lodge (Hungry Mother), Potomac River Retreat (Westmoreland))	\$263	\$1,573	\$237	\$1,415

6-Bedroom Lodge, Kiptopeke, James River, Claytor Lake, Occoneechee, Bear Creek Lake	\$275	\$1,649	\$249	\$1,483
CAMPING CABINS, CAMPING LODGES, YURTS, AND TRAVEL TRAILERS (camping cabins, camping lodges, yurts, and travel trailers located in campgrounds and operated in conjunction with the campground)	Per-Night Rental Fee	Per-Week Rental Fee	Per-Night Rental Fee	Per-Week Rental Fee
Camping Cabin rental rate: (2-night minimum rental required)	\$56 <u>\$49</u>	NA	\$48 <u>\$45</u>	NA
Yurt rental: Standard fee	\$98	\$589	\$88	\$529
Travel Trailers: 25-30' Standard fee	\$98	\$589	\$88	\$529
Camping Lodges: Standard fee	\$98	\$589	\$88	\$529
Additional Cabin Fees:				
Additional Bed Rentals	\$3.00 per rental night			
Additional linens <u>at all parks unless otherwise noted. One set of linens is 1 sheet set (1 fitted sheet, 1 flat sheet, and 1 pillowcase) or 1 towel set (1 bath towel, 1 hand towel, and 1 washcloth or 2 bath towels and 1 washcloth)</u>	\$6.00 <u>\$2.00</u> per bed sheet set <u>\$2.00</u> per towel set			
Cabin Cancellation Fee: Applies to all lodging in this section except as described below in "Lodge Cancellation Fee"	\$20 per cancellation period: See notes on Cabin Transfer/Cancellation/Early Departure Policy.			
Lodge Cancellation Fee: Applies to Fairy Stone Lodge, Douthat Lodge, Hungry Mother Lodge, Potomac River Retreat, and all 6-bedroom park lodges	\$50 per cancellation period: See notes on Cabin Transfer/Cancellation/Early Departure Policy			
Pet Fee	\$10 per pet per night			

Regulations

Pocahontas Group Cabins	DAY	WEEK
<u>Algonquian Ecology Camp Dining Hall: When rented alone; 8 a.m. to 10 p.m. for day use. 24-hour use when rented with cabins</u>	\$236	\$1,181
<u>Swift Creek Dining Hall: When rented with a minimum of two cabins; 8 a.m. to 10 p.m. for day use. 24-hour use when rented with cabins</u>	\$105 <u>\$275</u>	\$525 <u>\$1,375</u>
<u>Dining Hall: fee for partial day rental when associated with full day rental as noted above</u>	\$140	NA
Cabin Units: per unit, per night — two units minimum in ecology camp:		
One Unit — Capacity: 28	\$97	\$485
Two Units — Capacity: 56	\$158	\$789
Three Units — Capacity: 84	\$206	\$1,031
Four Units — Capacity: 112	\$243	\$1,213
<u>Complete Algonquian Ecology Camp (Ecology Camp) (4 units: 112 capacity) with Dining Hall</u>	\$364 <u>\$460</u>	\$1,820 <u>\$2,300</u>
<u>Complete Swift Creek Camp (Group Camp #3) (2 units: 56 capacity) with Dining Hall</u>	\$279 <u>\$375</u>	\$1,394 <u>\$1,875</u>
Refundable security deposit charged for all reservations	\$100 per reservation	

Notes on Pocahontas Group Cabins:

Pocahontas Group Cabins: Reservations of more than \$200 or more require a 25% prepayment, due within 14 days of making the reservation, to hold a reservation. Balance of fees is due 60 days prior to the reservation start date. Reservations of less than \$200 require payment in full to confirm the reservation, due within 14 days of making the reservation. Cancellations made 30 days or more prior to the first day of the reservation shall receive a refund less a

\$30 per unit cancellation fee. Cancellations made less than 30 days prior to the first date of the reservation receive no refund unless the units are subsequently rented, in which case the refund shall be full price minus \$30 per unit.

Notes on cabins:

1. Seasonal cabin rates shall be in effect according to the following schedule, except for camping cabins, camping lodges, yurts, and travel trailers, which operate on the same schedule and season as the campground at that particular park. In the event that a weekly rental period includes two seasonal rates, the higher rate will apply for the entire weekly rental period.

PARK	PRIME SEASON	MID-SEASON	OFF-SEASON
Bear Creek Lake*** Belle Isle Chippokes Plantation First Landing Kiptopeke*** Lake Anna*** Occoneechee*** Southwest Virginia Museum Staunton River Twin Lakes Westmoreland	Friday night prior to Memorial Day through the Sunday night prior to Labor Day	April 1 through Thursday night prior to Memorial Day, and Labor Day through November 30	December 1 through March 31
Claytor Lake Douthat Fairy Stone Hungry Mother James River*** Smith Mountain Lake	Friday night prior to Memorial Day through the Sunday night prior to Labor Day, and October 1 through October 31	April 1 through Thursday night prior to Memorial Day, and Labor Day through September 30, and November 1 through November 30	December 1 through March 31
***Cabin or lodge facilities will be added; exact dates of completion unknown.			

2. All dates refer to the night of the stay; checkout time is 10 a.m. and check-in time is 3 p.m.

3. The following holiday periods are charged prime season weekend rates: the Wednesday, Thursday, Friday, and Saturday period that includes Thanksgiving Day; and Christmas Eve and Christmas Day; and New Year's Eve and New Year's Day.

4. Cabin guests are allowed two vehicles per cabin per day without charge of parking fee. Additional vehicles must pay the prevailing parking fee for each day that the vehicle is parked in the park. The number of vehicles allowed to park at the cabin varies according to site design and other factors. All vehicles must park in designated parking areas, either at the cabin or in the designated overflow parking area.

5. Lodge guests are allowed six vehicles per lodge per day without charge of parking fee. Additional vehicles must pay the prevailing vehicle parking fee for each day the vehicle is parked in the park. The number of vehicles allowed to park at the lodge varies according to site design and other factors. All vehicles must park in designated parking areas, either at the lodge or in the designated overflow parking area.

6. Damage to cabins, not considered normal wear and tear, may be billed to the person registered for the cabin on an itemized cost basis.

7. Each member of the cabin rental party, up to the maximum allowable for the rented unit, may receive an entrance pass to the park's swimming facility on the basis of one pass per night of rental. Passes are only issued during days and seasons of operation of the swimming facility and are only good during the member's registered stay.

8. Employees of DCR and the members of committees and boards of DCR shall receive a discount of 50% on applicable cabin rates for any season, when the rental of such cabins is in connection with the official business of DCR or its committees or boards.

Notes on cabin transfer/cancellation/early departure policy:

1. Any fees to be refunded are calculated less the applicable cancellation fees listed below.
2. Fees paid to the reservation center by credit card will be refunded to the original credit card charged.
3. Fees paid by check or money order to the reservation center, or by any method at the park, will be refunded by state check.
4. A customer may move a cabin reservation to another date or park, referred to as a transfer, through the reservation center only, and prior to 5 p.m. on the Monday before the scheduled date of arrival. After 5 p.m. on the Monday before the scheduled date of arrival, cancellation is the only option (see note 5 below) except that transfers to a different cabin for the same rental nights shall be allowed, subject to availability, up to the check in time for the original reservation.
5. Once the reservation is paid for, a customer may cancel in full with payment of the required cancellation fee if

there are more than 30 days before the scheduled arrival date. As long as the reservation is not during the one-week minimum stay requirement period, the length of stay may be reduced without a fee as long as there are more than 30 days before the scheduled arrival. However, the length of stay cannot be less than two nights. During the 30 days prior to the scheduled arrival date, the cancellation fee is charged for each night cancelled or reduced from the stay. Once the official check-in time on the scheduled arrival date is reached, the cancellation policy is no longer in effect and the early departure policy applies.

6. Once the 3 p.m. check-in time is reached on the scheduled day of arrival, any adjustment to a reservation is considered an early departure. There is a two night minimum charge associated with all cabin stays. Reducing the total nights stayed will incur a \$20 per night fee. If the original reservation was for a week, the weekly discount will no longer be valid and the fee will be adjusted to the nightly rate before any refunds are calculated.

4VAC5-36-110. Picnic shelters fees.

PICNIC SHELTERS (TAXABLE)

The shelter rental periods shall be from park opening until park closing, unless otherwise specified.	DAY
Standard Small Picnic Shelter Rental Fee: Bear Creek Lake, Belle Isle, Caledon, Chippokes Plantation, Claytor Lake (including gazebo), Douthat, Holliday Lake, Hungry Mother (half shelter), Lake Anna, Natural Tunnel, New River Trail, Occoneechee, Pocahontas, Smith Mountain Lake, Twin Lakes, Westmoreland, York River, and all other small park picnic shelters.	\$53
Standard Large Picnic Shelter Rental Fee: Belle Isle, Chippokes Plantation, Claytor Lake, Douthat Fairy Stone, First Landing, Grayson Highlands, Hungry Mother (full shelter), James River, Kiptopeke, Lake Anna, Natural Tunnel, Occoneechee, Pocahontas, Shenandoah, Smith Mountain Lake (Pavilion), Staunton River, Staunton River Battlefield, Twin Lakes, Westmoreland, York River, and all other large park picnic shelters.	\$84
Shenandoah Large Group Shelter	\$95
Leesylvania Shelter Rental	\$126
Leesylvania: Lee's Landing Picnic Area Rental	\$58

Regulations

Leesylvania: Lee's Landing Picnic Shelter	\$315
With 15 tables and 100 chairs	\$735
Mason Neck Picnic Area Rental	
Without tent shelter	\$58
With tent shelter (seasonably available)	\$126
Chippokes Plantation Conference Shelter (with kitchen)	\$105 per function
Chippokes Plantation Conference Shelter (without kitchen)	\$63 per function
Mini-Shelter: All parks where available unless otherwise noted.	\$21
Event Tent Rental: Full day in-park rental only. Price includes set up and take down.	
Standard fee: All parks where available unless otherwise noted.	\$0.38 per square foot
Chippokes Plantation, Douthat, Kiptopeke, Lake Anna, Pocahontas, Shenandoah River, Sky Meadows, Smith Mountain Lake, York River.	\$0.45 per square foot
False Cape, First Landing, Leesylvania, Mason Neck.	\$0.50 per square foot
Standard 10' x 10' event tent	\$25 per day
Westmoreland: 20' x 40' tent with tables and chairs	\$400 per day
White String Lights for Tent	\$0.80 per foot
Side Panels for Tent	\$1.50 per foot
Standard Shelter Cancellation Fee: Cancellation fee deducted from refund if refund is made more than 14 days prior to the reservation date. No refunds if cancellation made within 14 days prior to date. Shelter reservation may be transferred without penalty if the change is made through the reservations center prior to scheduled use.	\$10

4VAC5-36-115. Horse arena fees.

HORSE ARENAS (TAXABLE)		
	<u>HALF-DAY</u>	<u>DAY</u>
<u>Group Rental of Entire Horse Arena Facility</u>		
<u>New River Trail (includes lights)</u>	<u>\$250</u>	<u>\$400</u>
<u>Pocahontas (8 a.m. until dark, no lights available)</u>	<u>\$180</u>	<u>\$300</u>
	<u>WEEKDAYS</u>	<u>WEEKENDS</u>
<u>Individual Horse Arena Facility Use Daily Pass (does not include parking fee)</u>		
<u>New River Trail and Pocahontas</u>	<u>\$5.00 per person</u>	<u>\$6.00 per person</u>
<u>Individual Horse Arena Facility Use Annual Pass (does not include parking fee) New River Trail and Pocahontas</u>	<u>\$30 per person</u>	

4VAC5-36-120. Amphitheater and gazebo fees.

AMPHITHEATERS AND GAZEBOS (TAXABLE, Price here does not include tax)

Amphitheater or Gazebo Rental Fee: The amphitheater or gazebo rental periods shall be from park opening until park closing unless otherwise specified.	DAY
Leesylvania, Fairy Stone, Staunton River, Kiptopeke and all other amphitheaters and gazebos unless noted below.	\$32
Claytor Lake (gazebo) ; Hungry Mother, Occoneechee, Westmoreland, New River Trail, Shenandoah River (overlook).	\$53
Smith Mountain Lake, Natural Tunnel (gazebo at Cove Ridge), James River, First Landing (gazebo at Chesapeake Bay Center).	\$74
<u>Claytor Lake (gazebo)</u>	<u>\$84</u>
York River and Douthat	\$105

Regulations

Natural Tunnel and First Landing Amphitheaters: Private group or company rate:	\$315
Natural Tunnel and First Landing Amphitheaters: Educational group.	\$158
Natural Tunnel Amphitheater Wedding Package: Three consecutive half-day rental periods.	\$420 per package
First Landing: Courtyard at Chesapeake Bay Center; includes amphitheater and gazebo.	\$788
First Landing: Additional hourly charge for hours beyond 10 p.m. for gazebo.	\$11 per hour
First Landing: Additional hourly charge for hours beyond 10 p.m. for Courtyard.	\$53 per hour
Fishing Tournament Staging. All parks where available.	\$26
Pocahontas Amphitheater Area: Without Heritage Center. Includes Amphitheater, Exhibit Area, Restrooms and use of sound system.	\$630
Pocahontas Amphitheater Area Plus Heritage Center	\$840
Parking Attendant (per attendant).	\$11 per hour
Law Enforcement Officer (per officer).	\$26 per hour
Natural Tunnel: Rental of Observation Deck at mouth of tunnel for dinner parties. Includes use of chairlift for transportation of guests and supplies and set-up/take-down of tables and chairs.	\$300 per 4 hours
Natural Tunnel Amphitheater Concession Building	\$42
Natural Tunnel: Sound System Rental	\$32
Stage Cover Rental:	
Occonechee	\$26

Standard Amphitheater/Gazebo Cancellation Fee: Cancellation fee deducted from refund if refund is made more than 14 days prior to the reservation date. No refunds if cancellation made within fourteen days prior to date.	\$11
All parks unless listed below.	\$11
Pocahontas Amphitheater or First Landing Courtyard	\$105

4VAC5-36-140. Interpretive canoe, boat, and paddleboat fees.

INTERPRETIVE CANOE, BOAT, AND PADDLEBOAT PROGRAMS (NONTAXABLE)

Interpretive Canoe, Boat, and Paddleboat Tours:	FEE
Environmental Education Group Canoe Tour: Available only to bona fide educational groups. Requires previous reservation and arrangements. Minimum 4 persons. Mason Neck and all other parks where available unless otherwise noted.	\$3.00 per person
Standard Canoe Interpretive Tour Fee for Individuals: Applies to canoe, rowboat, or paddleboat tours. Child riding as third passenger, where allowed, is free.	
Individuals at all parks unless noted below.	\$5.00 per person
Individuals at Leesylvania, York River, Pocahontas, Kiptopeke.	\$9.00 per person
Individuals at Mason Neck.	\$15 per person
Individuals at Natural Tunnel.	\$12 per person
Individuals at False Cape: Back Bay Interpretive Tour.	\$16 per person
Family Groups at all parks unless noted below. Minimum 4 paying customers.	\$4.00 per person
Family Groups at Leesylvania, Pocahontas, York River, Kiptopeke. Minimum 4 paying customers.	\$6.00 per person
Family Groups at Mason Neck.	\$9.00 per person
Group rate at Natural Tunnel (minimum 8 paying customers).	\$10 per person

Regulations

Sunset, Moonlight, Dawn, or Extended Canoe Interpretive Tour Fee for Individuals: Applies to canoe, rowboat, or paddleboat tours.		Moonlight/Night Canoe Interpretive Tour Fee for Family Groups: Leesylvania, Poahontas , and York River. Requires 4 or more paying customers.	\$8.00 per person
All parks where offered unless noted below.	\$6.00 per person	<u>Extended Canoe Interpretive Tour Fee for Family Groups:</u>	<u>\$25 per person</u>
Sunset, Dawn, Extended Canoe Interpretive Tour Fee for Individuals: Leesylvania, York River, New River Trail, Poahontas.	\$11 per person \$15 per person	<u>Grayson Highlands.</u>	
Mason Neck.		Overnight Canoe Tour: Mason Neck/Leesylvania/Widewater (includes tents and dinner).	\$145 per person
<u>Sunset, Dawn, Extended Canoe Interpretive Tour Fee for Individuals:</u>	<u>\$15 per person</u>	Bear Creek Lake: Willis River Interpretive Canoe Tour	
<u>New River Trail, Mason Neck.</u>		Short Trip.	\$8.00 per person
<u>Extended Canoe Interpretive Tour Fee for Individuals:</u>	<u>\$25 per person</u>	Long Trip.	\$10 per person
<u>Grayson Highlands.</u>		Natural Tunnel Clinch River:	
Moonlight/Night Canoe Interpretive Tour Fee for Individuals: Leesylvania, York River, Poahontas.	\$13 per person \$20 per person	Half-Day Trip Group Rate. Requires 8 or more paying customers.	\$12 per person
Mason Neck.		Full-Day Trip. Group Rate. Requires 8 or more paying customers.	\$20 per person
<u>Moonlight/Night Canoe Interpretive Tour Fee for Individuals:</u>	<u>\$20 per person</u>	Half-Day Trip. Individuals.	\$15 per person
<u>Mason Neck.</u>		Full-Day Trip. Individuals.	\$25 per person
Sunset, Moonlight, Dawn, or Extended Canoe Interpretive Tour Fee for Family Groups: Applies to canoe, rowboat, or paddleboat tours. Minimum four paying customers.		Overnight Trip. Individuals.	\$45 per person
All parks where offered unless otherwise noted.	\$5.00 per person	Short Trip. Clinchport to Copper Creek	\$7.00 per person
Sunset, Dawn, or Extended Canoe Interpretive Tour Fee for Family Groups:		Interpretive Kayak Tour, Solo Kayak: Westmoreland and other <u>All</u> parks where available unless otherwise noted.	\$16 per person
Leesylvania, Poahontas, New River Trail, York River. Requires 4 or more paying customers.	\$7.00 per person \$11 per person	<u>Interpretive Kayak Tour, Solo Kayak:</u>	<u>\$19 per person</u>
Mason Neck.		<u>Westmoreland</u>	
<u>Sunset, Dawn, or Extended Canoe Interpretive Tour Fee for Family Groups:</u>	<u>\$11 per person</u>	Interpretive Kayak Tour, Tandem Kayak: Westmoreland and other <u>All</u> parks where available unless otherwise noted.	\$22 per kayak
<u>New River Trail, Mason Neck.</u>		<u>Interpretive Kayak Tour, Tandem Kayak:</u>	<u>\$25 per kayak</u>
		<u>Westmoreland</u>	

Regulations

Interpretive Pontoon Boat Tour: All parks where available.	\$2.00 (Age 3 through 12) \$3.00 (Age 13 and over)
Lake Excursion and Ecology Tour: All parks where available unless otherwise noted (limit 6 people per tour)	\$10 per person
Claytor Lake	\$15 <u>\$10</u> (Age 13 and over) \$10 <u>\$7.00</u> (Age 3 through 12)
Rental of Entire Boat (Exclusive Use): Claytor Lake and other <u>All</u> parks where available	\$60 per tour

Note Notes on Interpretive Canoe, Boat, and Paddleboat Programs:

1. Cancellation Policy for group reservations: Guest must cancel four days prior to the tour date in order to receive a refund. Any guest canceling less than four days before the start of the reservation will not be eligible for a refund. A one-time \$10 cancellation fee will apply per reservation regardless of number of boats reserved. In the event of inclement weather where the park must cancel, the guest will be offered either a complete refund or reservation transfer to another date.

2. Additional costs for supplies and materials may apply.

4VAC5-36-150. Interpretive and educational tours and program fees.

INTERPRETIVE AND EDUCATIONAL TOURS AND PROGRAMS (NONTAXABLE)

Interpretive and Educational Tours and Programs		
PARK	PROGRAM	FEE
All parks unless otherwise noted:	Standard Interpretive Program: (Fee does not apply to informational programs such as campfire programs or roving interpretation).	\$2.00 per person \$6.00 per family
	Standard Night Hike or Evening Program	\$3.00 per person \$8.00 per family

<u>Standard Workshop Fee</u>	<u>\$5.00 per child (Age 12 and under)</u> <u>\$15 per adult (Age 13 and over)</u>
Standard Wagon Ride Program	\$3.00 per person \$8.00 per family \$25 exclusive group
Extended or Special Event Wagon Ride Program	\$4.00 per person \$10 per family \$75 exclusive group booking
Park Outreach Program: Price per park staff member conducting program	\$10 for under 2 hours \$25 for 2 to 3 hours \$50 for 4 hours plus
Standard Junior Ranger Program: 4-day program. All parks unless noted below.	\$10 full program \$3.00 per day
Haunted Hike	\$1.00 (Age 3 through 12) \$3.00 (Age 13 and over)
<u>Geo Caching Interpretive Program.</u>	<u>\$3.00 per person</u> <u>\$8.00 per family</u> <u>\$25 per group</u>
<u>Nature-Themed Birthday Party: Includes a nature talk, hike, games, songs, and time in the Nature Center for gifts and cakes. At least one staff member is present to conduct activities.</u>	<u>\$96 per hour plus materials cost for 12 children</u> <u>\$8.00 per additional child</u>

Regulations

<u>Grayson Highlands</u>	<u>Junior Ranger Program</u>	<u>\$5.00 per person per day</u>	Nature and Discovery Programs (School/Groups Outreach)	\$40 per hour at park \$60 per 1 and one-half hours at park \$80 per 2 hours at park \$50 per hour program at school or park (maximum 35 participants) \$70 per 1 and one-half hours at school \$90 per 2 hours at school \$15 additional if over 30 miles from park program is outside of Chesterfield County	
	<u>Hayrides</u>	<u>\$2.00 per child</u> <u>\$3.00 per adult</u>			
	<u>Adventure Rangers Interpretive Program</u>	<u>\$10 per person per day</u>			
	<u>Make a Birdhouse Program</u>	<u>\$5.00 per person</u>			
	<u>Make Your Own Hiking Stick Program</u>	<u>\$3.00 per person</u>			
	<u>2-Day Photography Class</u>	<u>\$35 per person</u>			
Oconeechee	Individual interpretive program pass: (Allows admission for one person to 4 interpretive programs valued at \$3.00 or less)	\$6.00 per pass			
	Family interpretive program pass: (Allows admission for members of the same family to 4 interpretive programs valued at \$8.00 or less)	\$18 per pass			
Pocahontas	Nature Camps	\$50 per 3-hour day for one week \$100 per 6-hour day for one week child per program plus materials cost <u>\$30 per child plus materials cost for Jr. Assistant. The Jr. Assistant helps the park staff in conducting camp programs.</u>	Sky Meadows	Music Program	\$5.00 per person
				A Day in Wildflower Woods	\$8.00 per person
				Interpretive Program Series: 6-program series	\$15 per person per program \$54 per person per 4 programs \$72 per person per 6 programs
	Curious Kids	\$3.00 per program	Southwest Virginia Museum	How Our Ancestors Lived (9-week children's series)	\$10 per person for entire series \$2.00 per person for individual program
				Workshop (Adult)	\$10 per person
				Workshop (Children)	\$5.00 per person
			Caledon	Caledon Eagle Tours	\$6.00 per person \$50 Flat Rate (minimum: 10; maximum: 20)
				All Group Programs up to 2 hours long	\$5.00 per person
				Haunted Hay Ride	\$12 per person
				Caledon Junior Ranger Program	\$15 per person

Regulations

	Special Program Bus Fee: Programs involving transportation within the natural area.	\$3.00 per person		York River Children's Programs	\$2.00 per person, single program \$10 unlimited participation throughout Interpretive Season
	Workshop (Adult)	\$15 per person			
	Workshop (Children)	\$5.00 per person			
Natural Tunnel: Cove Ridge	Guided Programs	\$25 per program (Maximum 30 participants) \$25 facility fee (If applicable)		"Nature Party": Nature Themed Birthday Party for Children	\$10 per person
	Environmental Education (Children's Activities)	\$25 per program (Maximum 30 participants) \$25 facility fee (If applicable)	Westmoreland	Guided Program Fee	\$25 per person
	3 or More Activities	\$15 per program \$25 facility fee (If applicable)	Natural Tunnel	Junior Ranger Program (Includes T-Shirt)	\$35 per person
	Environmental Education (Adult Facilitation)	\$15 per person		Standard Wagon Ride Program	\$50 Exclusive Group Reservation
	Field Trips	Per program charge with use of center; chairlift passes, if required for program, included in cost		Ranger Led Programs – Groups	\$3.00 per person
				Hay Wagon and Hot Dog Roast	\$10 per person
				Bike Tours - 2 hours	\$10 per person
		Extended Bike Tours - 4 hours	\$15 per person		
Hungry Mother/Hemlock Haven	Junior Naturalist Program	\$4.00 per person per week \$12 unlimited participation in interpretive season		Canoe and Bike Tour - 4 hours	\$20 per person
				Halloween Haunted House/Hay Wagon Ride	\$3.00 (Age 3 through 12) \$5.00 (Age 13 and over)
				Canoe/Hay Wagon Ride	\$12 (Age 3 through 12) \$15 (Age 13 and over)
Kiptopeke	Birding Program (Hawk observatory/bird banding station)	\$4.00 per person	Mason Neck	Halloween Haunted House/Hay Wagon Ride	\$5.00 per person
	Birding Program (Group Rates)	\$35 (Corporate) \$25 (Nonprofit)		Junior Ranger Program	\$50 per person
York River	Guided Adventure Programs	\$4.00 per person \$40 per group (Minimum 12 persons)	Holliday Lake	Field Archaeology Workshop	\$25 per person
				Junior Ranger Program (3 half-day workshop) (Ages 6 to 13)	\$25 per child
			False Cape	Wildlife Watch Tour – Per Person	\$8.00 per person
				Astronomy Program	\$10 per person
			Staunton River	Junior Ranger Program	\$4.00 per session

Regulations

	Interpretive Craft	\$2.00 per person
	Down A Lazy River Guided Canoe Trip	\$6.00 per child \$8.00 per adult
	Hayride	\$1.00 per person
First Landing	Junior Ranger Program	\$25 per person
	Kritter Kids	\$25 per person
Bear Creek Lake	Interpretive bike tours	\$3.00 per person
Leesylvania	Junior Ranger Program	\$45 per person
	Halloween Haunted Hike	\$2.00 per person \$6.00 per group (4 person maximum)
	Interpretive Programs	\$2.00 per person
	Kids Fishing Tournament	\$2.00 per child
Natural Tunnel	Pannel Cave Tour	\$10 per person \$7.00 per person (Family-Group; 8-person minimum)
	Bolling Cave Tours	\$15 per person \$12 per person (Family-Group; 8-person minimum)
	Stock Creek Tunnel Tour	\$5.00 per person
Westmoreland	Orienteering Program	\$3.00 per person \$25 per group (20 maximum)
New River Trail	New River Trail Seniors Van Tour Full Day	\$25 per person
	New River Trail Seniors Van Tour Half Day	\$15 per person
	<u>Bertha Cave Tour</u>	<u>\$10 per person</u>
James River	Haunted Wagon Ride	\$5.00 per person (Age 7 and over) Children 6 and under free

Belle Isle	Triple Treat Program: Hayride/Canoe/Campfire	\$10 per person
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Notes on interpretive and educational tours and programs:
Additional costs for supplies and materials may apply.

4VAC5-36-180. State park performing arts events fees.

STATE PARK PERFORMING ARTS EVENTS (NONTAXABLE)

State Parks Performing Arts Events:	FEE
All parks unless otherwise noted below:	Under age 3 is free \$3.00 (Age 3 through 12) \$5.00 (Age 13 and over)
<u>Pocahontas Premier Shows</u>	<u>\$8.00 per person advance tickets, includes daily parking fee</u> <u>\$10 per person day of show</u> <u>Children 12 and under free</u> <u>\$40 per person season tickets- includes daily parking fee for day of all Premier shows</u>
Natural Tunnel Gospel Singing Festival	\$5.00 per vehicle
Douthat Performing Arts in the Park	Under age 3 is free \$4.00 (Age 3 through 12) \$9.00 (Age 13 and over)
Smith Mountain Lake: Music in the Park (per event)	Under age 12 is free \$3.00 (Age 13 and over)
Pass for 10 events	\$20
Pass for 15 events	\$28

Note on Performing Arts Event Fees:

Cancellation Policy for Performing Arts Programs:

1. Generally, all events go on rain or shine and no refunds will be given. If an event is canceled by management, a full refund will be provided to ticket

Regulations

holders if rescheduling is not an option. No refunds will be given for any reason other than event cancellation.

2. "Ticket as Voucher" policy for Performing Arts Series: Generally, all events go on rain or shine. Should a specific event/program in the series be canceled by management, the cancellation policy regarding refunds (see 1 above) applies. However, unused tickets, including tickets not used due to purchaser's own decision, retain face value that may be applied to entry to subsequent events, including events in future seasons. No refunds will be given for any reason other than event cancellation.

4VAC5-36-200. Miscellaneous rental fees.

RENTALS (TAXABLE; Price here does not include tax)

Bike Rentals (includes helmet)	FEE
All parks where available unless otherwise noted	\$3.00 per hour \$8.00 per half-day \$15 per full-day
Claytor Lake	\$4.00 per hour \$25 per day
New River Trail, James River, Mason Neck	\$5.00 per hour \$12 per half-day \$18 per day
First Landing	\$5.00 per hour \$16 per day
Bike Helmet without bike rental	\$1.00
Child Cart for bike	\$5.00
Boat Rentals	
Standard Paddle Boat Rental:	
All parks where available unless otherwise noted	\$4.00 per half-hour \$6.00 per hour
Fairy Stone, <u>Westmoreland</u>	<u>\$5.00 per half-hour</u> \$8.00 per hour
Smith Mountain Lake	\$10 per half-hour \$15 per one hour \$60 \$80 for 24 hours \$30 additional for each day after first day
Standard Canoe Rental:	
All parks where available unless otherwise noted.	\$8.00 per hour \$15 per half-day \$25 per full-day \$40 for 24 hours \$100 per week

Smith Mountain Lake	\$8.00 per half-hour \$12 per one hour \$60 for 24 hours \$30 additional for each day after first day
Claytor Lake	\$8 \$10 per hour \$25 \$35 per half-day \$40 \$50 per day \$50 per 24 hours
Leesylvania, Mason Neck	\$7.00 per half-hour \$12 per hour \$35 per half-day \$50 per day \$60 per 24 hours
James River	\$10 per hour (does not include shuttle) \$40 per day (does not include shuttle) \$120 per week (does not include shuttle) \$12 per half hour past return time
Standard Float Trips:	
Shenandoah River	\$5.00 per person
James River	
Bent Creek to Canoe Landing:	
Canoe	\$45 Max 3 people
Single Kayak	\$35 per kayak
Double Kayak	\$45 per kayak
Canoe Landing to Dixon Landing:	
Tubes	\$10 per tube
Group of four or more	\$8.00 per tube
Canoe	\$15 per canoe
Single Kayak	\$15 per kayak
Double Kayak	\$15 per kayak
Bent Creek to Dixon Landing:	
Canoe	\$50 per canoe
Single Kayak	\$40 per kayak
Double Kayak	\$50 per kayak

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Shuttle Service Only:		Trip E: Route 100 to Allisionia	\$40 per kayak
Bent Creek Shuttle	\$5.00 per boat (canoe/kayak) \$5.00 per person	Trip F: Foster Falls to Allisionia	\$45 per kayak
Tubes	\$5.00 per person/Bent Creek Shuttle \$2.00 between landings in park	Standard Rowboat Rental, without motor:	
Late Fee	\$12 per half hour past return time	All parks where available unless otherwise noted	\$6.00 per hour \$12 per half-day \$22 per full-day \$36 per 24 hours \$80 per week
New River Trail	\$7.00 per hour \$20 per half-day \$30 per day \$35 per half-day, includes canoe rental and shuttle \$50 per full day, includes canoe rental and shuttle	Hungry Mother: Rowboats	\$4.00 per hour \$15 per day \$40 per week
Canoe Rental (includes shuttle)		New River Trail: Rafts and flat-bottom boats	\$7.00 per hour \$20 per half-day \$30 per day
Trip A: Austinville to Foster Falls	\$35 per canoe	Standard Rowboat Rental with electric motor and battery: All parks where available unless otherwise noted	\$10 per hour \$20 per 4 hours \$36 per day \$100 per 4 days \$150 per week
Trip B: Ivanhoe to Austinville	\$45 per canoe	Standard Motorboat Rental, 16-foot console steering, 25-45 horsepower outboard. All parks where available.	\$18 per hour \$90 per day
Trip C: Ivanhoe to Foster Falls	\$50 per canoe	Standard Fishing Boat Rental with gasoline motor and one tank of fuel: All parks where available.	\$10 per hour (2-hour minimum) \$50 per day
Trip D: Foster Falls to Route 100	\$45 per canoe	Pedal Craft Rental: (Hydro-Bike, Surf-Bike, etc.) All parks where available unless otherwise noted.	
Trip E: Route 100 to Allisionia	\$50 per canoe	One person.	\$8.00 per hour
Trip F: Foster Falls to Allisionia	\$55 per canoe	Two person.	\$10 per hour
Kayak Rental (includes shuttle)		Smith Mountain Lake: Hydro Bike	\$8.00 per half hour \$12 per hour \$4.00 additional per hour after first hour \$60 per 24 hours \$30 additional per day after first day
Trip A: Austinville to Foster Falls	\$25 per kayak	Barracuda Boat. All parks where available	\$10 per hour
Trip B: Ivanhoe to Austinville	\$35 per kayak		
Trip C: Ivanhoe to Foster Falls	\$40 per kayak		
Trip D: Foster Falls to Route 100	\$35 per kayak		

Regulations

Solo Kayak Rental:		James River	\$10 per hour (does not include shuttle) \$35 per day (does not include shuttle) \$120 per week (does not include shuttle) \$12 per half hour past return time
All parks where available unless otherwise noted	\$8.00 per hour \$15 \$20 per half-day \$25 \$30 per full-day day \$40 for 24 hours \$100 per week	Mason Neck	\$8.00 per half-hour \$15 per hour \$45 per 4 hours \$60 per day
<u>Westmoreland</u>	<u>\$9.00 per hour</u> <u>\$17 per half-day</u> <u>\$30 per day</u>	Smith Mountain Lake: 14-foot fishing boat with 5 hp (3 person capacity). Rental does not include fuel and oil. Damage deposit of \$200 required.	\$50 for 3-hours \$10 additional per hour after first 3 hours \$150 for 24 hours \$30 additional per day after first day
Smith Mountain Lake	\$8.00 per half hour \$12 per hour \$60 per 24 hours \$30 additional per day after first day	Claytor Lake: 14-foot Jon boat with 8 hp motor Damage deposit of \$40 <u>50%</u> required	\$15 per hour \$45 per half-day \$65 per day \$78 per 24 hours
Mason Neck	\$6.00 per half-hour \$10 per hour \$35 per half-day \$50 per day \$60 per 24 hours	Claytor Lake: 14.5-foot fishing boat with 9.9 hp motor Damage deposit of \$40 <u>50%</u> required	\$17 per hour \$50 per half-day \$75 per day \$90 per 24 hours
<u>New River Trail</u>	\$7.00 per hour \$20 per half-day \$30 per day	Claytor Lake: 14-foot v-hull boat with 25 hp motor Damage deposit of \$75 <u>50%</u> required	\$25 per hour \$65 per half-day \$100 per day \$120 per 24 hours
James River	\$7.00 per hour (does not include shuttle) \$20 per day (does not include shuttle) \$80 per week (does not include shuttle) \$12 per half hour past return time	Claytor Lake: 17-foot v-hull with 140 hp motor Damage deposit of \$150 <u>50%</u> required	\$45 \$60 per hour \$110 <u>\$135</u> per half-day \$175 <u>\$210</u> per day \$210 per 24 hours
<u>Claytor Lake</u>	<u>\$8.00 per hour</u> <u>\$25 per half-day</u> <u>\$40 per day</u>	Claytor Lake: 21-foot pontoon boat with 50 hp motor. Damage deposit of \$150 <u>50%</u> required	\$45 \$60 per hour \$110 <u>\$135</u> per half-day \$175 <u>\$210</u> per day \$210 per 24 hours
Tandem Kayak Rental:		Claytor Lake: 20-foot 17-foot bowrider with 135 hp motor. Damage deposit of \$150 <u>50%</u> required	\$60 \$40 per hour \$135 <u>\$115</u> per half day \$210 <u>\$180</u> per day
All parks where available unless otherwise noted.	\$10 per hour \$20 per half-day \$30 per full-day \$45 for 24 hours \$120 per week	<u>Claytor Lake: 20-foot pontoon boat with 90 hp motor. Damage deposit of 50% required</u>	<u>\$40 per hour</u> <u>\$110 per half-day</u> <u>\$175 per day</u>
<u>Westmoreland</u>	<u>\$12 per hour</u> <u>\$22 per half-day</u> <u>\$36 per day</u>		
Smith Mountain Lake	\$10 per half-hour <u>\$15 per hour</u> \$80 for 24 hours \$30 additional for each day after first day		

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Claytor Lake: 24-foot pontoon boat with 75 hp motor. <u>Damage deposit of 50% required</u>	<u>\$45 per hour</u> <u>\$125 per half-day</u> <u>\$200 per day</u>	Claytor Lake: 22-foot pontoon boat (11 person capacity) <u>Damage deposit of \$150 required</u>	<u>\$55 per hour</u> <u>\$125 per 4 hours</u> <u>\$200 per 8 hours</u> <u>\$240 per 24 hours</u>
Claytor Lake: 30-foot pontoon boat with 115 hp motor. <u>Damage deposit of 50% required</u>	<u>\$60 per hour</u> <u>\$160 per half-day</u> <u>\$250 per day</u>	Smith Mountain Lake: 24-foot pontoon boat with 40 hp (10-12 person capacity). <u>Damage deposit of \$200 required.</u>	<u>\$80</u> \$90 for 3 hours \$20 additional per hour after first 3 hours <u>\$160</u> \$165 per 8 hours <u>\$200</u> \$215 for 24 hours \$80 additional each day after first day
Claytor Lake: 18-foot bowrider with 190 hp motor. <u>Damage deposit of 50% required</u>	<u>\$45 per hour</u> <u>\$125 per half-day</u> <u>\$200 per day</u>	Claytor Lake: Water Sports Pontoon and Equipment Package: Includes 24-foot pontoon boat, 2 kayaks, tubing, and ski vests.	<u>\$300 per day</u>
Claytor Lake: Water Sports Speed Boat and Equipment Package: Includes 17-foot bowrider, water skis, kneeboard, towrope, ski ropes, and ski vests.	<u>\$250 per day</u>	Smith Mountain Lake: Personal Watercraft (Waverunner 700). Rental does not include fuel and oil. <u>Damage deposit of \$500 required.</u>	<u>\$150</u> \$180 for 3 hours \$20 additional per hour after first 3 hours <u>\$240</u> \$270 per 8 hours <u>\$305</u> \$335 for 24 hours <u>\$100</u> \$130 additional per day after first day
Occoneechee: 17-1/2-foot fishing boat. Rental includes 30 gallons of fuel. <u>Damage deposit of \$200 required</u>	\$85 per hour \$20 additional per hour after first hour \$175 per 8 hours \$875 per 7 day week	Belle Isle: Motorboat less than 25 horsepower (6 <u>3</u> gallons of fuel included, 2-hour minimum)	\$15 per hour <u>\$60 per half-day</u> <u>\$90</u> \$100 per day
Occoneechee: 20-foot pontoon boat with motor (8 person capacity) Rental includes 30 gallons of fuel. <u>Damage deposit of \$200 required.</u>	\$85 per hour \$20 additional per hour after first hour \$175 per 8 hours \$875 per 7 day week	Belle Isle: Motorboat 25-49 horsepower (11 gallons of fuel included, 2-hour minimum)	\$22 per hour <u>\$70 per half-day</u> \$110 per day
Occoneechee: 22-foot pontoon boat with motor (10 person capacity) Rental includes 30 gallons of fuel. <u>Damage deposit of \$200 required.</u>	\$95 per hour \$20 additional per hour after first hour \$185 per 8 hours \$925 per 7 day week	Standard Damage/Replacement Fees: All parks where available unless otherwise noted. Not required for damage due to normal wear and tear.	
Smith Mountain Lake: 18-20-foot Runabout with 190 hp (8 person capacity). Rental does not include fuel and oil. <u>Damage deposit of \$200 required.</u>	<u>\$150</u> \$165 for 3 hours \$20 additional per hour after first 3 hours <u>\$240</u> \$255 per 8 hours <u>\$305</u> \$320 for 24 hours \$100 additional per day after first day	Paddle	\$20
Claytor Lake: 18-foot pontoon boat (7 person capacity) <u>Damage deposit of \$100</u> <u>50%</u> required	\$35 per hour \$95 per 4 hours \$160 per 8 hours \$192 per 24 hours	Anchor/Rope	\$40
		Fuel Tank/Hose	\$60
		Fire Extinguisher	\$25
		Throw Cushion	\$10
		Propeller (small)	\$100
		Propeller (large)	\$135
		<u>Personal Flotation Device (PFD): replacement fee for lost/damaged PFD</u>	<u>\$25 each</u>
		Other Rentals:	
		Personal Flotation Device (PFD): When separate from boat rental.	\$1.00 per day

Regulations

Smith Mountain Lake, James River: Personal Floatation Device, type II.	\$5.00 for first day \$1.00 additional days	<u>GPS Units</u>	<u>\$6.00 per unit per half-day</u> <u>\$10 per unit per day</u>
Smith Mountain Lake: Personal Floatation Device, type III	\$7.00 for first day \$2.00 additional days	Volleyball Net and Ball Rental: All parks where available.	\$10
Canoe/Kayak Paddles: All parks where available unless otherwise noted.	\$5.00 per day	Binocular Rentals (2 hours): All parks where available.	\$2.00
New River Trail: Float Tubes	<u>\$5.00 per hour</u> <u>\$12 per half-day</u> \$10 <u>\$18 per day</u>	Beach Floats: All parks where available.	\$1.00 per hour \$3.00 for 4-hours \$5.00 for full-day
James River:		Surf Lounge Floating Chair Rental. All parks where available.	\$2.00 per hour, single chair \$5.00 per half-day, single chair \$7.00 per full day, single chair \$3.00 per hour, double chair \$7.00 per half-day, double chair \$10 per full day, double chair
Cooler Tubes	\$3.00 per day	Body Board: First Landing	\$6.00 per day
Seat Backs (kayaks)	\$3.00 per day	Beach Umbrella: All parks where available unless otherwise noted.	\$3.00 per hour \$8.00 for 4 hours \$15 for full-day
Tubes	\$8.00 per hour (does not include shuttle) \$20 per day (does not include shuttle) \$12 per half hour past return time	First Landing	\$6.00 per day
Claytor Lake: 2-person tow tube and towrope (with rental of boat only)	\$20 per 2 hours \$25 per half-day \$30 per day	Kiptopeke	\$5.00 per 4 hours \$8.00 per 8 hours
Claytor Lake: Water skis and towrope (with rental of boat only)	\$20 per 2 hours \$25 per half-day \$30 per day	Beach Chair: All parks where available	\$5.00 per day
Claytor Lake: Kneeboard and towrope (with rental of boat only)	\$15 per 2 hours \$20 per half-day \$25 per day	First Landing	\$6.00 per day
Smith Mountain Lake: Tow tube; Water Skis; Knee Board	\$15 per day with boat rental <u>\$5.00 per additional day</u> \$25 per day without boat rental	Fishing Rods: All parks where available unless otherwise noted.	\$5.00 per half-day
Smith Mountain Lake: Wake Board	\$25 per day with boat rental <u>\$10 per additional day</u> \$30 per day without boat rental	First Landing	\$6.00 per day \$3.00 per rod per fishing program
Mobile Pig Cooker: All parks where available unless otherwise noted.	\$40 per day	Tents with a group camp reservation. All parks where available.	
		2-person tent	\$12 per day
		3-person tent	\$20 per day
		4-person tent	\$25 per day

Regulations

4VAC5-36-210. Conference center and meeting facility fees.

5-person tent	\$30 per day
Coin-Operated Washing Machine: All parks where available unless otherwise noted.	\$1.25 per load, tax included
<u>First Landing</u>	<u>\$1.50 per load, tax included</u>
Coin Operated Dryer: All parks where available unless otherwise noted.	\$1.25 per load, tax included
<u>First Landing</u>	<u>\$1.50 per load, tax included</u>
6-Foot Table (Includes 6 chairs) Additional chairs:	\$20 per rental period \$3.00 each per rental period
Pump Out: All parks where available unless otherwise noted.	\$5.00
Horse Rentals:	
All parks where available unless otherwise noted.	\$20 per one-hour ride \$40 per two-hour ride \$100 per full day ride
Sky Meadows	\$30 per one-hour ride \$55 per two-hour ride \$45 per 1.5-hour theme ride \$10 pony rides, includes photo \$250 per week, day camp (10% family discount)
Pony Rides: All parks where available unless otherwise noted.	\$5.00 per 15 minutes
Horseback Riding Lessons: All parks where available unless otherwise noted.	\$25 per lesson on group basis \$30 per lesson for individual
Horseback Summer Day Camp: All parks where available unless otherwise noted.	\$180 per person per week
Horseshoe or Croquet Rental for Campers. All parks where available.	\$1.00 per hour \$5.00 per day \$20 deposit

CONFERENCE CENTERS (TAXABLE)

Prices may be discounted and/or waived by the director when necessary to create competitive bids for group sales.	FEE
Hemlock Haven Conference Center at Hungry Mother	
Main Hall (Capacity: 375)	\$263 per day
Upper Level (Capacity: 50)	\$158 per day
Redbud Room: (Capacity 35)	\$53 per day
Laurel Room (Capacity: 20)	\$37 per day
Entire Meeting Room Complex	\$420 per day
Day Use Recreational Package (Includes all outside recreational facilities)	
0 – 250 Persons	\$263 per half-day \$525 per full-day
250 – 500 Persons	\$394 per half-day \$788 per full-day
500 + persons	\$525 per half-day \$1,050 per full-day
Cedar Crest Conference Center at Twin Lakes	
Complex: Doswell Hall with deck, grounds, volleyball, horseshoes; Kitchen, Latham and Hurt Rooms NOT included.	\$229 per 4 hours \$459 per day \$53 each extra hour
Doswell Meeting Room: Meeting Room Only; no kitchen or dining room.	\$164 per room per 4 hours \$328 per room per day \$37 each extra hour
Small breakout rooms with main room: Latham and Hurt.	\$65 per room per 4 hours \$131 per room per day \$21 each extra hour
Small breakout rooms without main room.	\$98 per room per 4 hours \$196 per room per day \$37 each extra hour

Regulations

Picnic Shelter or Gazebo at Cedar Crest.	\$68 per 4 hours \$131 per day \$11 each extra hour		
Kitchen rental Only available with complex rental.	\$105 per event		
Kitchen Cleaning Fee: Deposit.	\$150 per event		
Chippokes Plantation Meeting, Conference, and Special Use Facilities			
Mansion Conference Room.	\$26 per hour		
Mansion or Historic Area Grounds (Includes parking for party rental).	\$525 per 4 hours		
Mansion Board Room	\$105 per 4 hours		
Chippokes Plantation Conference Shelter (Available on reservation basis only).	\$105 per 4 hours		
Wedding Package (includes historic area grounds, gardens, tent set up and take down, 10 60-inch round tables, 10 standard size rectangle tables, 100 folding chairs, Wedding Coordinator, changing room for bride and groom, Mansion kitchen area, boardroom, no fee for wedding rehearsal).	\$1,412 per 4 hours \$2,073 per 8 hours \$50 nonrefundable reservation fee		
Southwest Virginia Museum – Victorian Parlor Room Rental (Based on 4-hour rental)		DAY	EVENING
Option #1: Victorian Parlor – Basic Room Package (Includes tables with linen and chairs)			
Up to 22 People (6 tables – 22 chairs)	\$31	\$57	
		Option #2: Victorian Parlor – Executive Room Package (Includes tables with linen and chairs, water pitcher with glasses, coffeepot with cups (coffee not included), AV equipment, and presentation aids)	
		23 to 30 People (8 tables – 30 chairs) OR Up to 50 people (50 chairs and head table)	\$42
			\$68
		Up to 22 People (6 tables – 22 chairs)	\$52
			\$78
		23 to 30 People (8 tables – 30 chairs) OR Up to 50 people (50 chairs and head table)	\$68
			\$94
		Option #3: Additional meeting rooms: Victorian Parlor must be rented in order to rent additional rooms.	
		Hallway (downstairs) (Includes two existing tables with linens)	\$11
			\$11
		Each Additional Table with Linens	\$11
			\$11
		Small Parlor: AV room or Big Stone Gap Photo room (Includes 1 table with linens and 6-8 chairs)	\$31
			\$31
		Big Stone Gap Development Room (Includes 1 table with linens and 6-8 chairs)	\$41
			\$41
		Additional Hours	\$5.00 per hour
			\$5.00 per hour

Regulations

Wedding Portraits	\$52 per 2 hours	\$78 per 2 hours	Wedding Package Overnight: Includes Day Use Package plus one dorm for one night and swimming (in season).	\$919	NA
Wilderness Road (Mansion and Ground Rental)			Wedding Package Overnight: Includes Day Use Package plus both dorms for one night and swimming (in season).	\$1,102	NA
Mansion or Lawn: separately	\$63 for 4 hours		Wedding Package with Amphitheater: Rental of the park amphitheater in conjunction with any of the above wedding packages.	\$236 for the rental period	NA
Mansion and Lawn: combined	\$105 for 4 hours		Removal of furniture from great room (only available with exclusive use of the center).	\$42	\$42
Additional hours beyond scheduled operating hours	\$11 per hour		Additional seating on deck (only available with exclusive use of the center).	\$42	\$0
Cove Ridge Center at Natural Tunnel:	PRIVATE FEE	EDUCATIONAL FEE	Auditorium	\$126 per half day \$231 per full day	\$99 per half day \$183 per full day
Cove Ridge Center Annual Membership: Membership entitles organization to a 25% discount on facility rental fees and group rates on all programming offered through the center.	\$1,050 per year	\$525 per year	Classroom – Library (half-day)	\$63	\$31 \$47
Day Use: Exclusive use of the auditorium, meeting room, resource library, catering kitchen, great room with stone fireplace and deck for two consecutive half-day rental periods, and parking passes.	\$315	\$210	One dorm: Overnight lodging for up to 30, includes swimming (in season) and parking passes.	\$420 per night April 1-October 31 \$378 per night November 1-March 31	\$315 per night April 1-October 31 \$283 per night November 1-March 31
Overnight Use of one dorm: Includes Day Use Package plus one dorm rooms for one night and swimming (in season).	\$683	\$498	Both Dorms: Overnight lodging for up to 60, includes swimming (in season) and parking passes.	\$630 per night April 1-October 31 \$567 per night November 1-March 31	\$472 per night April 1-October 31 \$425 per night November 1-March 31
Overnight Use of both dorms: Includes Day Use Package plus two dorm rooms for one night and swimming (in season).	\$892	\$656	Per Person Student Rate for Overnight Dorm Use	\$13 per person	\$13 per person
Wedding Package Day Use: Exclusive use of the auditorium, meeting room, resource library, catering kitchen, great room with stone fireplace and deck for three consecutive half-day rental periods, and parking passes.	\$525	NA	Kitchen Use (when not included in package)	\$26 \$50 per event	\$26 \$50 per event

Regulations

Heritage Center at Pocahontas: All reservations require 50% down at time of reservation (Nonrefundable within 14 days of event)	PRIVATE FEE	EDUCATIONAL FEE	Allegheny Room: Up to 30 persons.	\$158 per day
Large Room (Capacity: seated at tables 50; reception style 125, auditorium 80: includes tables, chairs and warming kitchen)	\$131 per 4 hours \$236 per full-day \$26 each extra hour	\$78 per 4 hours \$141 per full-day \$15 each extra hour	Wedding Package: Conference room and amphitheater (see "amphitheater section") on day of wedding, plus an extra half-day amphitheater for rehearsal.	\$289
Westmoreland	FEE		First Landing	
Taylor and Helen Murphy Hall Meeting Facility: Includes Main Meeting Room, Kitchen, and Grounds	\$350 <u>\$400</u> (8 a.m. to 10 p.m.) \$315 additional rental days after first day \$25 per hour for usage beyond reservation period		Trail Center Conference Room (Capacity: 45)	\$42 per half-day \$63 per full-day
<u>Potomac Overlook Rental</u>	<u>\$55 per day</u>		Lake Anna	
Breakout Meeting Room (May be rented separately from main meeting room only within 45 days of event.	\$75 (8 a.m. to 10 p.m.)		Visitor Center	\$32 per half-day \$53 per full day
Kitchen Clean Up Fee: (Waived if renter cleans facility)	\$250 per event		Concessions Building Rental	\$100 per day
Wedding Package - Includes half-day rental for wedding rehearsal, and a full-day rental for wedding/reception	\$300		Bear Creek Lake	
Potomac River Retreat: Table and Chair Set-up	\$40		Meeting facility	\$236 per day \$25 each extra hour
Fairy Stone			Wedding Package	\$315 per day
Fayerdale Hall Meeting Facility	\$236 (8 a.m. to 10 p.m.)		Claytor Lake	
Wedding Package - Includes full-day rental for wedding rehearsal, and a full-day rental for wedding/reception.	\$315		Marina Meeting Facility: <u>Includes facility, chairs, and tables.</u>	\$400 <u>\$550</u> per day <u>\$825 per two days</u>
Douthat			Wedding Package: Includes rental of facility for two consecutive days (8 a.m. to 10 p.m.) , chairs, and tables, gazebo, and special use permit (\$10 permit fee is waived with package). <u>Linens are not included in the rental package.</u>	\$700 <u>\$625 per day package</u> <u>\$995 per two-day package</u>
Restaurant (includes table set-up)	\$236		Meeting Package: Includes rental of facility for three consecutive days (8 a.m. to 10 p.m.), all usage of audiovisual equipment. <u>Linens are not included in the rental package.</u>	\$1,000

Regulations

Leesylvania Wedding/Function Package: Includes Rental of: Lee's Landing Picnic Shelter, 100 Chairs, 15 Tables, and Parking for up to 50 vehicles	\$840 per half-day \$945 per full-day
Mason Neck	
Wedding Package: 20 foot by 40 foot tent, 100 chairs, parking for up to 50 cars	\$788 per event
Parking Attendant	\$53 per 4 hours
Smith Mountain Lake	
Meeting room at Visitor Center	\$158 per day
Exceeding approved hours. All parks unless otherwise noted below.	\$25 per hour
Sky Meadows	
Timberlake House Meeting Room	\$50 per half-day \$75 per day
Timberlake House Kitchen (in conjunction with rental of meeting room)	\$25 per day or part of day
Equipment and Services Associated with Meetings and Rentals:	
Microphone/Podium Rental	\$15 per day
Linen Rentals:	
Table cloth only Place settings	\$3.00 per table \$2.00 each
Twin Lakes	
Overlay	\$1.25 per table
Napkins	\$0.40 per napkin
Fax	First 2 pages free \$2.00 each extra page
Copies	Single copy free \$0.15 each extra copy
Lost Key Fee	\$10
Easels	\$5.00 per day
Overhead Projector	\$10 per day
TV with VCR	\$10

Second TV	\$10
Overhead Projector with Screen	\$10
Slide Projector with Screen	\$10
Flip Chart	\$10
Event Clean Up Fees	
Park labor to clean up after special events and facility rentals if not done in accordance with rental agreement or use permit	\$50 per hour

Notes on conference and meeting facilities fees:

Conference and meeting facilities require a 30% prepayment due 10 days after making reservation, and payment of the full balance prior to or on the first day of the reservation. Cancellations made 14 or more days prior to the first day of the reservation shall be charged the lesser of 10% of the total fee or \$100. Cancellations made less than 14 days prior to the first date of the reservation shall be charged 30% of the total fee.

V.A.R. Doc. No. R09-1620; Filed November 5, 2008, 11:34 a.m.

DEPARTMENT OF FORESTRY

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 4VAC10-10. Public Participation Guidelines (repealing 4VAC10-10-10, 4VAC10-10-20, 4VAC10-10-30).

4VAC10-11. Public Participation Guidelines (adding 4VAC10-11-10 through 4VAC10-11-110).

Statutory Authority: §§ 2.2-4007.02 and 10.1-1101 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Ronald S. Jenkins, Administrative Officer, Department of Forestry, 900 Natural Resources Drive, Suite 800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 293-2768, or email ron.jenkins@dof.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies

adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

4VAC10-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Department of Forestry. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

4VAC10-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Department of Forestry, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Regulations

Part II

Notification of Interested Persons

4VAC10-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

4VAC10-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 4VAC10-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

4VAC10-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either

orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

4VAC10-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

4VAC10-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

4VAC10-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

4VAC10-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

4VAC10-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

4VAC10-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

Regulations

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1428; Filed November 4, 2008, 8:55 a.m.

MARINE RESOURCES COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 12 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Final Regulation

Title of Regulation: **4VAC20-20. Pertaining to the Licensing of Fixed Fishing Devices (amending 4VAC20-20-50).**

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

Effective Date: November 1, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

This amendment exempts licensed pound net fisherman within the modified pound net leader area from requirements to fish their pound nets and establish a complete system of nets and poles in 2008 in order to renew their licenses.

4VAC20-20-50. Priority rights; renewal by current licensee.

A. Applications for renewal of license for existing fixed fishing devices may be accepted by the officer beginning at 9 a.m. on December 1 of the current license year through noon on January 10 of the next license year providing the applicant has met all requirements of law and this chapter. Any location not relicensed during the above period of time shall be considered vacant and available to any qualified applicant after noon on January 10.

B. Except as provided in subsections C and D of this section, a currently licensed fixed fishing device must have been fished during the current license year in order for the licensee to maintain his priority right to such location. It shall be mandatory for the licensee to notify the officer, on forms provided by the commission, when the fixed fishing device is ready to be fished in the location applied for, by a complete system of nets and poles, except as provided in subsection D of this section, for the purpose of visual inspection by the officer. Either the failure of the licensee to notify the officer when the fixed fishing device is ready to be fished or the failure by the licensee actually to fish the licensed device, by

use of a complete system of nets and poles, except as provided in subsection D of this section, shall terminate his right or privilege to renew the license during the period set forth in subsection A of this section of this chapter, and he shall not become a qualified applicant for such location until 9 a.m. on February 1. Any application received from an unqualified applicant under this subsection shall be considered as received at 9 a.m. on February 1; however, in the event of the death of a current license holder, the priority right to renew the currently held locations of the deceased licensee shall not expire by reason of failure to fish said locations during the year for which they were licensed, but one additional year shall be and is hereby granted to the personal representative or lawful beneficiary of the deceased licensee to license the location in the name of the estate of the deceased licensee for purposes of fishing said location or making valid assignment thereof.

C. During the effective period of 4VAC20-530, which establishes a moratorium on the taking and possession of American shad in the Chesapeake Bay and its tributaries, any person licensed during 1993 to set a staked gill net who chooses not to set that net during the period of the moratorium may maintain his priority right to the stake net's 1993 location by completing an application for a fixed fishing device and submitting it to the officer. No license fee shall be charged for the application.

D. Current pound net licensees shall not be required to fish their pound nets or establish a complete system of nets and poles; in ~~2007~~ 2008 in order to renew their licenses or maintain their priority rights to such locations; for ~~2008~~ 2009.

VA.R. Doc. No. R09-1662; Filed October 30, 2008, 11:20 a.m.

Final Regulation

Title of Regulation: **4VAC20-252. Pertaining to the Taking of Striped Bass (amending 4VAC20-252-90, 4VAC20-252-100).**

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

Effective Date: November 1, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments change the dates for the possession limit of two fish per person to October 4 through December 20, and the possession limit of one fish per person to December 21 through December 31 for the bay fall recreational striped bass fishery and the Potomac River tributaries fall recreational striped bass fishery.

4VAC20-252-90. Bay fall striped bass recreational fishery.

A. The open season for the bay fall striped bass recreational fishery shall be October 4 through December 31, inclusive.

B. The area open for this fishery shall be the Chesapeake Bay and its tributaries.

C. The minimum size limit for this fishery shall be 18 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection ~~F~~ G of this section.

E. The possession limit for this fishery shall be two fish per person from October 4 through December ~~9~~ 20.

F. The possession limit for this fishery shall be one fish per person from December ~~4~~ 21 through December 31.

G. The possession limits described in subsection E and F of this section may consist of only one striped bass 34 inches or greater.

4VAC20-252-100. Potomac River tributaries summer/fall striped bass recreational fishery.

A. The open season for the Potomac River tributaries fall striped bass fishery shall correspond to the open fall season as established by the Potomac River Fisheries Commission for the mainstem Potomac River.

B. The area open for this fishery shall be the Potomac River tributaries.

C. The minimum size limit for this fishery shall be 18 inches total length.

D. The maximum size limit for this fishery shall be 28 inches total length, except as provided in subsection ~~F~~ G of this section.

E. The possession limit for this fishery shall be two fish per person from October 4 through December ~~9~~ 20.

F. The possession limit for this fishery shall be one fish per person from December ~~4~~ 21 through December 31.

G. The possession limits described in subsection E and F of this section may consist of only one striped bass 34 inches or greater.

V.A.R. Doc. No. R09-1669; Filed October 30, 2008, 11:07 a.m.

Final Regulation

Title of Regulation: **4VAC20-260. Pertaining to Designation of Seed Areas and Clean Cull Areas (amending 4VAC20-260-35, 4VAC20-260-40).**

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

Effective Date: November 1, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendments establish (i) a maximum cull size of 4-1/4 inches for harvested oysters; (ii) culling tolerances for undersized and oversized oysters; and (iii) stricter penalties for the Lower Rappahannock River, Rotation Areas 1 through 3, for the 2008-2009 public oyster harvest season.

4VAC20-260-35. Maximum cull size in the Rappahannock River.

In order to protect potentially disease tolerant oysters in the Lower Rappahannock River, maximum size limits are hereby established. In the Lower Rappahannock River, Rotation Areas 1 through ~~6~~ 3, oysters larger than the maximum size limit shall either be collected by the Marine Resources Commission or returned immediately to the natural beds, rocks, or shoals when taken. Allowance for oversized oysters and shells incidentally retained during culling are described in 4VAC20-260-40.

Oysters taken for direct human consumption from Rotation Areas 1 through ~~6~~ 3 in the Lower Rappahannock River shall not have shells greater than 4-1/4 inches in length.

4VAC20-260-40. Culling tolerances or standards.

A. In the clean cull areas, except the Lower Rappahannock River, Rotation Areas 1 through ~~6~~ 3, if more than one four-quart measure of undersized oysters or shells is found per bushel inspected, it shall constitute a violation of this chapter.

B. In the Lower Rappahannock River, Rotation Areas 1 through ~~6~~ 3, if more than one four-quart measure of undersized or oversized oysters or shells is found per bushel inspected, it shall constitute a violation of this chapter.

C. In the James River seed areas, if more than one six-quart measure of shells is found per bushel of seed oysters inspected, it shall constitute a violation of this chapter.

D. In the James River seed areas, if more than one four-quart measure of undersized oysters or shells are found per bushel of clean cull oysters inspected, it shall constitute a violation of this chapter.

E. On the seaside of Eastern Shore seed areas, if more than one four-quart measure of undersized (less than three inches) oysters and shell is found per bushel of oysters to be marketed for direct consumption, it shall constitute a violation of this chapter.

V.A.R. Doc. No. R09-1668; Filed October 30, 2008, 11:10 a.m.

Regulations

Final Regulation

Title of Regulation: **4VAC20-751. Pertaining to the Setting and Mesh Size of Gill Nets (amending 4VAC20-751-20).**

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

Effective Date: October 29, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary

This amendment makes it unlawful for any person to place any unattended gill net within 500 yards of the mean high-water mark on the ocean side of Northampton and Accomack counties, north of a line, beginning at the southernmost point of Smith Island and thence extending due east to the three-mile limit line.

4VAC20-751-20. Gill net mesh sizes, restricted areas, and season.

A. From January 1 through March 25 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size between 3-3/4 inches and six inches within the restricted areas as set forth below, except that during the month of February any legally licensed fisherman may place, set, or fish any gill net with a stretched mesh size from five inches to six inches within the restricted areas described in this subsection. From March 26 through June 15 of each year, it shall be unlawful for any person to place, set, or fish any gill net with a stretched mesh size greater than six inches within the restricted areas set forth below, except as described in 4VAC20-252-135:

1. In James River, those tidal waters upstream of a line connecting Willoughby Spit and Old Point Comfort;
2. In Back River, those tidal waters upstream of a line connecting Factory Point and Plumtree Point;
3. In Poquoson River, those tidal waters upstream of a line connecting Marsh Point and Tue Point;
4. In York River, those tidal waters upstream of a line connecting Tue Point and Guinea Marshes;
5. In Mobjack Bay, those tidal waters upstream of a line connecting Guinea Marshes and New Point Comfort;
6. In Milford Haven, those tidal waters upstream of a line connecting Rigby Island and Sandy Point;
7. In Piankatank River, those tidal waters upstream of a line connecting Cherry Point and Stingray Point; and
8. In Rappahannock River, those tidal waters upstream of a line connecting Stingray Point to Windmill Point.

B. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish more than 8,400 feet of gill net.

C. During the period May 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net in the Chesapeake Bay or in Virginia's portion of the Territorial Sea, that is made, set or fished in a tied-down manner, by connecting the net's head rope and foot rope with lines, which cause the net to form a pocket of webbing.

D. During the period June 1 through June 30, it shall be unlawful for any person to have aboard any vessel or to place, set, or fish any gill net with a stretched mesh greater than six inches in the Virginia portion of the Territorial Sea, south of a line connecting Smith Island Light and the three-mile limit line.

E. From June 1 through October 15, it shall be unlawful for any person to place any ~~anchored, weighted, or~~ unattended gill net within 500 yards of the mean high-water mark, on the ocean side of Northampton and Accomack counties, north of a line, beginning at the southern most point of Smith Island and thence extending due east to the three-mile limit line.

VA.R. Doc. No. R09-1663; Filed October 30, 2008, 9:52 a.m.

Final Regulation

Title of Regulation: **4VAC20-910. Pertaining to Scup (Porgy) (amending 4VAC20-910-45).**

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

Effective Date: November 1, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

The amendment lowers the commercial possession limit for scup from 3,500 pounds to 2,000 pounds for November 1 through December 31 of each year.

4VAC20-910-45. Possession limits and harvest quotas.

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 30,000 pounds of scup.
2. Land in Virginia more than a total of 30,000 pounds of scup during each consecutive 14-day landing period, with the first 14-day period beginning on January 2.

B. When it is projected and announced that 80% of the coastwide quota for this period has been attained, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than a total of 1,000 pounds of scup.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than ~~3,500~~ 2,000 pounds of scup.

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to 2,887 pounds.

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig or other recreational gear to possess more than 50 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 50. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

VA.R. Doc. No. R09-1667; Filed October 30, 2008, 11:13 a.m.

Final Regulation

Title of Regulation: **4VAC20-1170. Requirements Related to the Purchase of Fish From the Catcher (adding 4VAC20-1170-10, 4VAC20-1170-20).**

Statutory Authority: § 28.2-207 of the Code of Virginia.

Effective Date: December 1, 2008.

Agency Contact: Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002, or email betty.warren@mrc.virginia.gov.

Summary:

This chapter sets certified scale requirements of persons, businesses or corporations licensed to purchase fish.

CHAPTER 1170

REQUIREMENTS RELATED TO THE PURCHASE OF FISH FROM THE CATCHER

4VAC20-1170-10. Certified scale required.

Any person, business, or corporation, licensed to purchase fish, shellfish, or marine organisms from the catcher, as required by § 28.2-228 of the Code of Virginia, that is engaged in the transfer, off-loading, or purchase, from the catcher of fish, shellfish, or marine organisms that are regulated by a harvest weight limit or quota, possession weight limit, or landing weight limit shall use and maintain a certified scale to weigh those fish, shellfish, or marine organisms. The scale used by the person, business or corporation shall be certified as accurate by the Virginia Commissioner of Agriculture and Consumer Services. Annually, the person, business, or corporation licensed by § 28.2-228 shall provide a signed statement to the commission verifying that the weight is determined by use of a scale certified as accurate by the Virginia Commissioner of Agriculture and Consumer Services and shall post a copy of that signed statement at the place of transfer, off-loading, or purchase.

4VAC20-1170-20. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

VA.R. Doc. No. R09-1666; Filed October 30, 2008, 11:18 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

FORENSIC SCIENCE BOARD

Proposed Regulation

Title of Regulation: **6VAC40-60. DNA Data Bank Regulations (adding 6VAC40-60-10 through 6VAC40-60-80).**

Statutory Authority: § 19.2-310.5 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on January 23, 2009.

Agency Contact: Michele M. Gowdy, Department Counsel, Department of Forensic Science, 700 North Fifth Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or email michele.gowdy@dfs.virginia.gov.

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Basis: Section 19.2-310.5 of the Code of Virginia states that the Department of Forensic Science "shall adopt regulations governing (i) the methods of obtaining information from the data bank in accordance with this section and (ii) procedures for verification of the identity and authority of the requestor." (See Chapter 868 of the 2005 Acts of Assembly).

Purpose: The new regulations establish the process for the Department of Forensic Science to allow law enforcement to obtain information from the data bank and the procedures for verifying the requestor's identity and authority as outlined in § 19.2-310.5 of the Code of Virginia. These regulations fulfill the General Assembly's mandate, and help promote the health, safety and general welfare of the public.

Substance: The new regulations establish the procedures for law enforcement to obtain information from the DNA data bank, as well as the process by which the Department of Forensic Science shall publish lists periodically of the department employees who have access to the data bank in addition to the level of access each employee has.

Issues: These regulations will provide the public with delineated guidelines on access to the DNA data bank. The advantage to the public and the Commonwealth is that the DNA data bank provides published lists of department employees who have access to the data bank and their level of access. This provides a level of security that is necessary and exists currently, but is not in a published forum. There are no disadvantages to the public or the Commonwealth.

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

Summary of the Proposed Amendments to Regulation. The Department of Forensic Science (DFS) proposes to promulgate new regulations to establish procedures for law enforcement officers to obtain information from Virginia's DNA data bank.

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

Estimated Economic Impact. As required by Code of Virginia § 19.2-310.5, DFS proposes to promulgate current department policies for accessing DNA data bank information into regulation. These policies allow federal, state and local law enforcement officers to request information from the DNA data bank "in furtherance of an official criminal investigation of any criminal offence". DFS requires law enforcement entities to submit requests for information in writing to the data bank supervisor. DFS staff are required to verify the identity of individuals requesting information and signify on the bottom the written request that they have done this. DFS policies, and these regulations, also mandate security measures for the DNA data bank. Computers that house DNA information must be password protected and DNA samples must be stored in a locked room. Access to both computers

and physic samples is limited to DFS staff "whose access is a necessary function of their jobs."

These proposed regulations will benefit DFS staff and law enforcement officers by formalizing and clarifying the rules under which DNA data may be accessed. These proposed regulations will likely also benefit the public as interested individuals will be able to access these rules more easily. Affected entities are unlikely to incur any extra costs on account of these proposed regulations since these rules were already enforced by DFS.

Businesses and Entities Affected. These regulations will affect all law enforcement entities who access the DNA data bank as well as all individuals whose DNA is in the data bank. DFS reports that they process approximately 200-300 requests for DNA data bank information each year.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no affect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no affect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation,

including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Forensic Science agrees with the estimated economic impact stated in the economic impact analysis 6VAC40-60, DNA Data Bank Regulations.

Summary:

The proposed regulations establish the procedures for law enforcement to obtain information from the DNA data bank and further establish who at the Department of Forensic Science has access to the DNA data bank. The regulations also detail the level of access for each Department of Forensic Science employee.

CHAPTER 60
DNA DATA BANK REGULATIONS

6VAC40-60-10. Definitions.

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

"Agency" means any federal, state or local government law-enforcement organization in the Commonwealth.

"Department" means the Department of Forensic Science.

"DNA" means deoxyribonucleic acid.

"DNA analysis" means analysis conducted on blood, saliva or tissue samples to obtain a genetic profile of identification characteristics.

"DNA data bank" means the Department of Forensic Science database of DNA profiles and/or the corresponding identifying information.

"DNA profile" means the results of forensic DNA analysis of a bodily substance.

"Sample" means a biological sample taken for DNA analysis.

"Subject" means the individual from whom the profile is obtained.

6VAC40-60-20. Persons authorized to obtain information regarding whether or not an individual's DNA profile is in the DNA data bank.

Any written request for any information from the DNA data bank shall come from a federal, state or local law-

enforcement officer whose request is made in furtherance of an official criminal investigation of any criminal offense.

6VAC40-60-30. Person(s) to whom a request for information from the DNA data bank may be addressed.

The written request must be addressed to the DNA data bank supervisor at the Department of Forensic Science and be signed by the requestor.

6VAC40-60-40. Contents of a request for information from the DNA data bank.

Any written request for information from the DNA data bank must contain the most complete identifying information available for the subject: full name, social security number, date of birth, race, sex, state identification number. The request must specify that the information is being obtained in the course of an official investigation of any criminal offense.

6VAC40-60-50. Form of the request.

A. All requests must be in writing and addressed to the DNA data bank supervisor. Requests should be on official letterhead and signed by the requesting official.

B. Any request made in person will be reduced to writing and verified by department personnel.

1. If the request is made in person, it must be reduced to writing on a plain piece of white paper and signed by the requesting official.
2. The plain white piece of paper must include the requestor's agency name and address.
3. The identity of the requestor must be verified by department personnel with verification of the requestor's identification card and badge number.
4. Once verification is made, the plain white piece of paper must also be signed by the same department employee on the bottom of the paper with the language "Identification verified by viewing requestor's identification card - badge #" written near the signature and signed by department personnel.

6VAC40-60-60. Where to make request.

Requests may be made:

1. Via facsimile: (804) 786-9985.
2. Via United States mail: 700 North Fifth Street, Richmond, VA 23219.
3. In person at: 700 North Fifth Street, Richmond, VA 23219.

6VAC40-60-70. Security of the DNA data bank.

Access to the DNA data bank computers and samples is restricted. The computers are password protected and the samples are stored physically in a locked room within the

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Virginia Department of Forensic Science central laboratory. Access is limited to those individuals within the department whose access is a necessary function of their jobs.

6VAC40-60-80. Publishing employee access levels to the DNA data bank.

The Department of Forensic Science shall periodically publish in the Virginia Register of Regulations a list of positions that have access to the DNA data bank as a necessary function of their jobs. The list shall also include the level of access that the position will have. Such list shall be published forthwith after any addition or deletion of any position to or from the approved list.

VA.R. Doc. No. R07-739; Filed October 30, 2008, 3:56 p.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory actions are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **9VAC5-80. Permits for Stationary Sources (amending 9VAC5-80-1615, 9VAC5-80-1695).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 112, 165, 173, 182 and Title V of the Clean Air Act; 40 CFR Parts 51, 61, 63, 70 and 72.

Effective Date: December 31, 2008.

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

Summary:

The amendment establishes a new source review (NSR) permit program whereby owners of sources locating in prevention of significant deterioration (PSD) areas are required to obtain a permit prior to construction of a new facility or modification (physical change or change in the method of operation) of an existing one.

The PSD NSR program applies to the construction or reconstruction of new major stationary sources or major

modifications to existing ones. The owner must obtain a permit from the board prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as may be needed to enable the board to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards, and to assess the impact of the emissions from the facility on air quality. The regulation also provides the basis for the board's final action (approval or disapproval) on the permit depending on the results of the preconstruction review.

The PSD NSR program requires a facility to use the best available control technology (BACT) to control emissions from the proposed facility, and requires a facility to control emissions from the proposed facility such that the air quality standards or increments are not violated

The PSD NSR program has been revised to specify that nitrogen oxides (NO_x) are a precursor of ozone in addition to volatile organic compounds (VOCs) in the definitions of "major modification," "major stationary source," "regulated NSR pollutant" and "significant," and the list of exempted facilities.

9VAC5-80-1615. Definitions.

A. As used in this article, all words or terms not defined herein shall have the meaning given them in ~~9VAC5 Chapter 10 (9VAC5-10)~~ 9VAC5-10 (General Definitions), unless otherwise required by context.

B. For the purpose of this article, 9VAC5-80-280 and applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meaning given them in subsection C of this section:

C. Terms defined.

"Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subdivisions a through c of this definition, except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under 9VAC5-80-1865. Instead, the definitions of "projected actual emissions" and "baseline actual emissions" shall apply for those purposes.

a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated

using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

b. The board may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

c. For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Actuals PAL for a major stationary source" means a PAL based on the baseline actual emissions of all emissions units at the source that emit or have the potential to emit the PAL pollutant.

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

"Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the federal class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with (i) times of visitor use of the federal class I areas, and (ii) the frequency and timing of natural conditions that reduce visibility.

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally and state enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

- a. The applicable standards as set forth in 40 CFR Parts 60, 61, and 63;
- b. The applicable implementation plan emissions limitation including those with a future compliance date; or
- c. The emissions limit specified as a federally and state enforceable permit condition, including those with a future compliance date.

For the purposes of actuals PALs, "allowable emissions" shall also be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

"Applicable federal requirement" means all of, but not limited to, the following as they apply to emissions units in a source subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

a. Any standard or other requirement provided for in an implementation plan established pursuant to § 110 or § 111(d) of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.

b. Any limit or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program.

c. Any emission standard, alternative emission standard, alternative emission limitation, equivalent emission limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.

d. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

e. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

f. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

g. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

h. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

i. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

j. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

k. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act unless the administrator has determined that such requirements need not be contained in a permit issued under this article.

l. With regard to temporary sources subject to 9VAC5-80-130, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in this article.

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with the following:

a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons

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per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding when the owner begins actual construction of the project. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(4) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivision a (2) of this definition.

b. For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner within the five-year period immediately preceding either the date the owner begins actual construction of the project, or the date a complete permit application is received by the board for a permit required under this article, whichever is earlier, except that the five-year period shall not include any period earlier than November 15, 1990. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation.

(1) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(2) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

(3) The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the administrator proposed or promulgated under 40 CFR Part 63, the baseline actual emissions need only be adjusted if the board has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 9VAC5-80-2120 K.

(4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. The same consecutive 24-month period shall be used for each different regulated NSR pollutant unless the owner can demonstrate to the satisfaction of the board that a different consecutive 24-month period for a different pollutant or pollutants is more appropriate due to extenuating circumstances.

(5) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subdivisions b (2) and (3) of this definition.

c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

d. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures contained in subdivision a of this definition, for other existing emissions units in accordance with the procedures contained in subdivision b of this definition, and for a new emissions unit in accordance with the procedures contained in subdivision c of this subsection.

"Baseline area":

a. Means any intrastate area (and every part thereof) designated as attainment or unclassifiable under § 107(d)(1)(C) of the federal Clean Air Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 µg/m³ (annual average) of the pollutant for which the minor source baseline date is established.

b. Area redesignations under § 107(d)(3) of the federal Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:

- (1) Establishes a minor source baseline date; or
- (2) Is subject to this article or 40 CFR 52.21 and would be constructed in the same state as the state proposing the redesignation.

c. Any baseline area established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that such baseline area shall not remain in effect if the board rescinds the corresponding minor source baseline date in accordance with subdivision d of the definition of "baseline date."

"Baseline concentration"

a. Means that ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

- (1) The actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in subdivision b of this definition; and
- (2) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

b. The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

- (1) Actual emissions from any major stationary source on which construction commenced after the major source baseline date; and
- (2) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

"Baseline date"

a. "Major source baseline date" means:

- (1) In the case of particulate matter and sulfur dioxide, January 6, 1975; and
- (2) In the case of nitrogen dioxide, February 8, 1988.

b. "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to this article submits a complete application under this article. The trigger date is:

- (1) In the case of particulate matter and sulfur dioxide, August 7, 1977; and
- (2) In the case of nitrogen dioxide, February 8, 1988.

c. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

- (1) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under § 107(d)(1)(C) of the federal Clean Air Act for the pollutant on the date of its complete application under this article or 40 CFR 52.21; and
- (2) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

d. Any minor source baseline date established originally for the TSP increments shall remain in effect and shall apply for purposes of determining the amount of available PM₁₀ increments, except that the board may rescind any such minor source baseline date where it can be shown, to the satisfaction of the board, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM₁₀ emissions.

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the board, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR Parts 60, 61, and 63. If the board determines that technological or economic limitations on the application of measurement methodology to a

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particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means that achieve equivalent results.

"Building, structure, facility or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., that have the same first two-digit code) as described in the Standard Industrial Classification Manual (see 9VAC5-20-21).

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for EPA. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

"Commence" as applied to construction of a major stationary source or major modification, means that the owner has all necessary preconstruction approvals or permits and either has:

- a. Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
- b. Entered into binding agreements or contractual obligations, that cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction of the source, to be completed within a reasonable time.

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for the

purposes of permit processing does not preclude the board from requesting or accepting any additional information.

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this article, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this article, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and to record average operational parameter value(s) on a continuous basis.

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit. For purposes of this definition, there are two types of emissions units: (i) a new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than two years from the date such emissions unit first operated; and (ii) an existing emissions unit is any emissions unit that is not a new emissions unit.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

- a. Are permanent;
- b. Contain a legal obligation for the owner to adhere to the terms and conditions;
- c. Do not allow a relaxation of a requirement of the implementation plan;
- d. Are technically accurate and quantifiable;

e. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits on a rolling basis, monthly or shorter limits, and other provisions consistent with this article and other regulations of the board; and

f. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

"Federally enforceable" means all limitations and conditions that are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

a. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.

b. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

c. All terms and conditions (unless expressly designated as not federally enforceable) in a federal operating permit, including any provisions that limit a source's potential to emit.

d. Limitations and conditions that are part of an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act.

e. Limitations and conditions (unless expressly designated as not federally enforceable) that are part of a federal construction permit issued under 40 CFR 52.21 or a new source review permit issued under regulations approved by the EPA into the implementation plan.

f. Limitations and conditions (unless expressly designated as not federally enforceable) that are part of a state operating permit where the permit and the permit program pursuant to which it was issued meet all of the following criteria:

(1) The operating permit program has been approved by the EPA into the implementation plan under § 110 of the federal Clean Air Act;

(2) The operating permit program imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that

permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA;

(3) The operating permit program requires that all emission limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the implementation plan, or that are otherwise "federally enforceable";

(4) The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter; and

(5) The permit in question was issued only after adequate and timely notice and opportunity for comment by the EPA and the public.

g. Limitations and conditions in a regulation of the board or program that has been approved by the EPA under subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

h. Individual consent agreements that the EPA has legal authority to create.

"Federal operating permit" means a permit issued under the federal operating permit program.

"Federal operating permit program" means an operating permit system (i) for issuing terms and conditions for major stationary sources, (ii) established to implement the requirements of Title V of the federal Clean Air Act and associated regulations, and (iii) codified in Article 1 (9VAC5-80-50 et seq.), Article 2 (9VAC5-80-310 et seq.), Article 3 (9VAC5-80-360 et seq.), and Article 4 (9VAC5-80-710 et seq.) of this part.

"Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

"Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

"Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

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"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

"Lowest achievable emission rate" or "LAER" is as defined in 9VAC5-80-2010 C.

"Locality particularly affected" means any locality that bears any identified disproportionate material air quality impact that would not be experienced by other localities.

"Low terrain" means any area other than high terrain.

"Major emissions unit" means (i) any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or (ii) any emissions unit that emits or has the potential to emit the PAL pollutant for nonattainment areas in an amount that is equal to or greater than the major source threshold for the PAL pollutant in subdivision a (1) of the definition of "major stationary source" in 9VAC5-80-2010 C.

"Major modification"

a. Means any physical change in or change in the method of operation of a major stationary source that would result in a significant emissions increase of a regulated NSR pollutant, and a significant net emissions increase of that pollutant from the major stationary source.

b. Any significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds or NO_x shall be considered significant for ozone.

c. A physical change or change in the method of operation shall not include the following:

(1) Routine maintenance, repair and replacement.

(2) Use of an alternative fuel or raw material by reason of an order under § 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plant pursuant to the federal Power Act.

(3) Use of an alternative fuel by reason of any order or rule under § 125 of the federal Clean Air Act.

(4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(5) Use of an alternative fuel or raw material by a stationary source that:

(a) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited

under any federally and state enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR 52.21 or this chapter; or

(b) The source is approved to use under any permit issued under 40 CFR 52.21 or this chapter; and

(c) The owner demonstrates to the board that as a result of trial burns at the source or other sources or other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

(6) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally and state enforceable permit condition that was established after January 6, 1975, pursuant to 40 CFR 52.21 or this chapter.

(7) Any change in ownership at a stationary source.

(8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) The applicable implementation plan, and

(b) Other requirements necessary to attain and maintain the ambient air quality standards during the project and after it is terminated.

(9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.

(10) The reactivation of a very clean coal-fired electric utility steam generating unit.

d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with the requirements under 9VAC5-80-1865 for a PAL for that pollutant. Instead, the definition of "PAL major modification" shall apply.

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part.

"Major stationary source"

a. Means:

(1) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, 100 tons per year or more of a any regulated NSR pollutant:

- (a) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.
- (b) Coal cleaning plants (with thermal dryers).
- (c) Kraft pulp mills.
- (d) Portland cement plants.
- (e) Primary zinc smelters.
- (f) Iron and steel mill plants.
- (g) Primary aluminum ore reduction plants.
- (h) Primary copper smelters.
- (i) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (j) Hydrofluoric acid plants.
- (k) Sulfuric acid plants.
- (l) Nitric acid plants.
- (m) Petroleum refineries.
- (n) Lime plants.
- (o) Phosphate rock processing plants.
- (p) Coke oven batteries.
- (q) Sulfur recovery plants.
- (r) Carbon black plants (furnace process).
- (s) Primary lead smelters.
- (t) Fuel conversion plants.
- (u) Sintering plants.
- (v) Secondary metal production plants.
- (w) Chemical process plants.
- (x) Fossil fuel boilers ~~(or combinations thereof)~~ (or combination of them) totaling more than 250 million British thermal units per hour heat input.
- (y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (z) Taconite ore processing plants.
- (aa) Glass fiber processing plants.
- (bb) Charcoal production plants.

(2) Notwithstanding the stationary source size specified in subdivision a (1) of this definition, any stationary

source that emits, or has the potential to emit, 250 tons per year or more of a regulated NSR pollutant; or

(3) Any physical change that would occur at a stationary source not otherwise qualifying under subdivision a (1) or a (2) of this definition as a major stationary source, if the change would constitute a major stationary source by itself.

b. A major stationary source that is major for volatile organic compounds or NO_x shall be considered major for ozone.

c. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this article whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (1) Coal cleaning plants (with thermal dryers).
- (2) Kraft pulp mills.
- (3) Portland cement plants.
- (4) Primary zinc smelters.
- (5) Iron and steel mills.
- (6) Primary aluminum ore reduction plants.
- (7) Primary copper smelters.
- (8) Municipal incinerators capable of charging more than 250 tons of refuse per day.
- (9) Hydrofluoric, sulfuric, or nitric acid plants.
- (10) Petroleum refineries.
- (11) Lime plants.
- (12) Phosphate rock processing plants.
- (13) Coke oven batteries.
- (14) Sulfur recovery plants.
- (15) Carbon black plants (furnace process).
- (16) Primary lead smelters.
- (17) Fuel conversion plants.
- (18) Sintering plants.
- (19) Secondary metal production plants.
- (20) Chemical process plants.
- (21) Fossil-fuel boilers ~~(or combination thereof)~~ (or combination of them) totaling more than 250 million British thermal units per hour heat input.
- (22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- (23) Taconite ore processing plants.

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(24) Glass fiber processing plants.

(25) Charcoal production plants.

(26) Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

(27) Any other stationary source category that, as of August 7, 1980, is being regulated under 40 CFR Parts 60 and 61.

"Minor new source review (NSR) permit" means a permit issued under the minor new source review program.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation) which do not qualify for review under the major new source review program, (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9VAC5-80-1100 et seq.) of this part.

"Necessary preconstruction approvals or permits" means those permits required under NSR programs that are part of the applicable implementation plan.

"Net emissions increase"

a. Means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

(1) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to 9VAC5-80-1605 G; and

(2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subdivision shall be determined as provided in the definition of "baseline actual emissions," except that subdivisions a (3) and b (4) of that definition shall not apply.

b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:

(1) The date five years before construction on the particular change commences; and

(2) The date that the increase from the particular change occurs.

c. An increase or decrease in actual emissions is creditable only if (i) it occurs between the date five years before construction on the particular change commences and the date that the increase from the particular change occurs;

and (ii) the board has not relied on it in issuing a permit for the source under this article (or the administrator under 40 CFR 52.21), which permit is in effect when the increase in actual emissions from the particular change occurs.

d. An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

f. A decrease in actual emissions is creditable only to the extent that:

(1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(2) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins;

(3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

h. Subdivision a of the definition of "actual emissions" shall not apply for determining creditable increases and decreases.

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9VAC5-80-1100 et seq.), Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part.

"Plantwide applicability limitation (PAL)" means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical

matter and established sourcewide in accordance with 9VAC5-80-1865.

"PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

"PAL effective period" means the period beginning with the PAL effective date and ending five years later.

"PAL major modification" means, notwithstanding the definitions for major modification and net emissions increase, any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

"PAL permit" means the major NSR permit, the minor NSR permit, the state operating permit, or the federal operating permit issued by the board that establishes a PAL for a major stationary source.

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally and state enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source. For the purposes of actuals PALs, any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable or enforceable as a practical matter by the state.

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.

"Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

"Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the five years (12-month period) following the date the unit

resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source. In determining the projected actual emissions (before beginning actual construction), the owner of the major stationary source:

- a. Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the approved implementation plan;
- b. Shall include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions; and
- c. Shall exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have emitted during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth, provided such exclusion shall not reduce any calculated increases in emissions that are caused by, result from, or are related to the particular project; or
- d. In lieu of using the method set out in subdivisions a through c of this definition, may elect to use the emissions unit's potential to emit, in tons per year.

"Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

- a. Has not been in operation for the two-year period prior to the enactment of the federal Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the department's emissions inventory at the time of enactment;
- b. Was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
- c. Is equipped with low-NOX burners prior to the time of commencement of operations following reactivation; and
- d. Is otherwise in compliance with the requirements of the federal Clean Air Act.

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"Reasonably available control technology" or "RACT" means the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

"Regulated NSR pollutant" means:

- a. Any pollutant for which an ambient air quality standard has been promulgated and any constituents or precursors for such pollutants identified by the administrator (e.g., volatile organic compounds and NO_x are precursors for ozone);
- b. Any pollutant that is subject to any standard promulgated under § 111 of the federal Clean Air Act;
- c. Any class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act; or
- d. Any pollutant that otherwise is subject to regulation under the federal Clean Air Act; except that any or all hazardous air pollutants either listed in § 112 of the federal Clean Air Act or added to the list pursuant to § 112(b)(2), which have not been delisted pursuant to § 112(b)(3), are not regulated NSR pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under § 108 of the federal Clean Air Act.

"Repowering" means:

- a. Replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
- b. Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.
- c. The board may give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under § 409 of the federal Clean Air Act.

"Secondary emissions" means emissions that would occur as a result of the construction or operation of a major stationary

source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this article, secondary emissions shall be specific, well defined, quantifiable, and affect the same general area as the stationary source or modification that causes the secondary emissions. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Significant" means:

- a. In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter (TSP)	25 tpy
PM ₁₀	15 tpy
PM _{2.5}	10 tpy
Ozone	40 tpy of volatile organic compounds <u>or</u> <u>NO_x</u>
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	7 tpy
Hydrogen Sulfide (H ₂ S)	10 tpy
Total Reduced Sulfur (including H ₂ S)	10 tpy
Reduced Sulfur Compounds (including H ₂ S)	10 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 ⁻⁶ tpy
Municipal waste combustor metals	15 tpy

(measured as particulate matter)	
Municipal waste combustor acid gases (measured as the sum of SO ₂ and HCl)	40 tpy
Municipal solid waste landfills emissions (measured as nonmethane organic compounds)	50 tpy

b. In reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subdivision a of this definition does not list, any emissions rate.

c. Notwithstanding subdivision a of this definition, any emissions rate or any net emissions increase associated with a major stationary source or major modification that would construct within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 µg/m³ (24-hour average).

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant for that pollutant.

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is significant for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

"Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

"State enforceable" means all limitations and conditions that are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9VAC5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"State operating permit" means a permit issued under the state operating permit program.

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources; (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability; and (iii) codified in Article 5 (9VAC5-80-800 et seq.) of this part.

"Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant.

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the ambient air quality standards during the project and after it is terminated.

9VAC5-80-1695. Exemptions.

A. The requirements of this article shall not apply to a particular major stationary source or major modification; if:

1. The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

- a. Coal cleaning plants (with thermal dryers).
- b. Kraft pulp mills.
- c. Portland cement plants.
- d. Primary zinc smelters.
- e. Iron and steel mills.
- f. Primary aluminum ore reduction plants.
- g. Primary copper smelters.
- h. Municipal incinerators capable of charging more than 250 tons of refuse per day.
- i. Hydrofluoric acid plants.
- j. Sulfuric acid plants.
- k. Nitric acid plants.
- l. Petroleum refineries.
- m. Lime plants.
- n. Phosphate rock processing plants.
- o. Coke oven batteries.
- p. Sulfur recovery plants.
- q. Carbon black plants (furnace process).
- r. Primary lead smelters.
- s. Fuel conversion plants.
- t. Sintering plants.
- u. Secondary metal production plants.
- v. Chemical process plants.

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w. Fossil-fuel boilers (~~or combination thereof~~) (or combination of them) totaling more than 250 million British thermal units per hour heat input.

x. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

y. Taconite ore processing plants.

z. Glass fiber processing plants.

aa. Charcoal production plants.

bb. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

cc. Any other stationary source category which, as of August 7, 1980, is being regulated under 40 CFR Part 60 or 61; or

2. The source or modification is a portable stationary source that has previously received a permit under this article, and

a. The owner proposes to relocate the source and emissions of the source at the new location would be temporary;

b. The emissions from the source would not exceed its allowable emissions;

c. The emissions from the source would affect no class I area and no area where an applicable increment is known to be violated; and

d. Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the board.

B. The requirements of this article shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment in 9VAC5-20-204.

C. The requirements of 9VAC5-80-1715, 9VAC5-80-1735, and 9VAC5-80-1755 shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

1. Would affect no class I area and no area where an applicable increment is known to be violated, and

2. Would be temporary.

D. The requirements of 9VAC5-80-1715, 9VAC5-80-1735, and 9VAC5-80-1755 as they relate to any maximum allowable increase for a class II area shall not apply to a

major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

E. The board may exempt a proposed major stationary source or major modification from the requirements of 9VAC5-80-1735 with respect to monitoring for a particular pollutant if:

1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:

Carbon monoxide -- $\mu\text{g}/\text{m}^3$, 8-hour average

Nitrogen dioxide -- $14 \mu\text{g}/\text{m}^3$, annual average

Particulate matter -- $10 \mu\text{g}/\text{m}^3$ of PM_{10} , 24-hour average

Sulfur dioxide -- $13 \mu\text{g}/\text{m}^3$, 24-hour average

Ozone *

Lead -- $0.1 \mu\text{g}/\text{m}^3$, 3-month average

Fluorides -- $0.25 \mu\text{g}/\text{m}^3$, 24-hour average

Total reduced sulfur -- $10 \mu\text{g}/\text{m}^3$, 1-hour average

Hydrogen sulfide -- $0.2 \mu\text{g}/\text{m}^3$, 1-hour average

Reduced sulfur compounds -- $10 \mu\text{g}/\text{m}^3$, 1-hour average; or

*No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or NO_x subject to this article would be required to perform an ambient impact analysis including the gathering of ambient air quality data.

2. The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subdivision 1 of this subsection, or the pollutant is not listed in subdivision 1 of this subsection.

VA.R. Doc. No. R09-1157; Filed November 3, 2008, 3:11 p.m.

Final Regulation

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

Titles of Regulations: **9VAC5-80. Permits for Stationary Sources (amending 9VAC5-80-150, 9VAC5-80-230, 9VAC5-80-270, 9VAC5-80-510, 9VAC5-80-590, 9VAC5-80-670, 9VAC5-80-860, 9VAC5-80-990, 9VAC5-80-1020, 9VAC5-80-1160, 9VAC5-80-1170, 9VAC5-80-1290, 9VAC5-80-1450, 9VAC5-80-1460, 9VAC5-80-1765, 9VAC5-80-1775, 9VAC5-80-1955, 9VAC5-80-2060, 9VAC5-80-2070, 9VAC5-80-2230; adding 9VAC5-80-5, 9VAC5-80-15, 9VAC5-80-25, 9VAC5-80-35, 9VAC5-80-1773).**

9VAC5-170. Regulation for General Administration (amending 9VAC5-170-30, 9VAC5-170-180, 9VAC5-170-190, 9VAC5-170-200).

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 112, 165, 173, 182 and Title V of the federal Clean Air Act; 40 CFR Parts 51, 61, 63, 70 and 72.

Effective Date: December 31, 2008.

Agency Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, TTY (804) 698-4021, or email cmberndt@deq.virginia.gov.

Summary:

The new procedures set forth in § 10.1-1322.01 of the Code of Virginia have been placed into Part I of Chapter 80. The new legislation addresses two issues: (i) where there is only a public comment period prior to the permit decision, and (ii) where there is a federal or state mandate to hold a hearing prior to the permitting decision. Both of these issues are addressed in a single narrative in § 10.1-1322.01. In order to ensure clear and consistent implementation, this provision has been split into separate sections: 9VAC5-80-25 and 9VAC5-80-35.

In the air permit program, a public hearing is required by either federal or state regulation for all major and certain minor new source review permits. On the other hand, operating permits have no mandate for a hearing; however, there is the opportunity to request one during the public comment period.

In each of the articles in Part II of Chapter 80 that covers the various permit programs, provisions are included from the law that tell the public what to do to request a hearing or board consideration, with a cross-reference to the appropriate provisions of Part I.

Chapter 170 has been revised to remove provisions related to board involvement in permitting decisions, which are now covered in Chapter 80 as appropriate to meet the requirements of the new legislation.

EDITOR'S NOTICE: The State Air Pollution Control Board is amending the title of Article 3 of Part II as follows:

Article 3
Federal Operating Permits for Acid Rain Operating Permits Sources

Part I
Permit Actions Before the Board

9VAC5-80-5. Definitions.

A. For the purpose of applying this chapter in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

B. Unless otherwise required by context, all terms not defined herein shall have the meaning given them in 9VAC5-170 (Regulation for General Administration), 9VAC5-10 (General Definitions), or commonly ascribed to them by recognized authorities, in that order of priority.

C. Terms defined.

"Applicable federal requirement" means all of, but not limited to, the following as they apply to affected emissions units subject to this chapter (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

1. Any standard or other requirement provided for in an implementation plan established pursuant to § 110, 111(d) or 129 of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.

2. Any term or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program. However, those terms or conditions designated as state-only enforceable shall not be applicable federal requirements.

3. Any emission standard, alternative emission standard, alternative emissions limitation, equivalent emissions limitation or other requirement established pursuant to § 112 or 129 of the federal Clean Air Act as amended in 1990.

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4. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

5. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

6. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

7. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

8. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

9. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

10. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a federal operating permit.

12. With regard to temporary sources subject to 9VAC5-80-130, (i) any ambient air quality standard, except applicable state requirements, and (ii) requirements regarding increments or visibility as provided in Article 8 (9VAC5-80-1605 et seq.) of Part II of this chapter.

13. Any standard or other requirement under § 126(a)(1) and (c) of the federal Clean Air Act.

"Board" means, for the purposes of this chapter, the Department of Environmental Quality. "Board" shall mean the State Air Pollution Control Board only for the purposes of granting direct consideration of permit actions as provided in 9VAC5-80-25 and granting requests for public hearings to contest permit actions as provided in 9VAC5-80-35.

"Federally enforceable" means all limitations and conditions that are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to the following:

1. Emission standards, alternative emission standards, alternative emissions limitations, and equivalent emissions

limitations established pursuant to § 112 of the federal Clean Air Act as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

3. All terms and conditions (unless expressly designated as state-only enforceable) in a federal operating permit, including any provisions that limit a source's potential to emit.

4. Limitations and conditions that are part of an implementation plan established pursuant to § 110, 111(d) or 129 of the federal Clean Air Act.

5. Limitations and conditions (unless expressly designated as state-only enforceable) that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by EPA into the implementation plan.

6. Limitations and conditions (unless expressly designated as state-only enforceable) that are part of a state operating permit where the permit and the permit program pursuant to which it was issued meet all of the following criteria:

a. The operating permit program has been approved by the EPA into the implementation plan under § 110 of the federal Clean Air Act.

b. The operating permit program imposes a legal obligation that operating permit holders adhere to the terms and limitations of such permits and provides that permits that do not conform to the operating permit program requirements and the requirements of EPA's underlying regulations may be deemed not "federally enforceable" by EPA.

c. The operating permit program requires that all emissions limitations, controls, and other requirements imposed by such permits will be at least as stringent as any other applicable limitations and requirements contained in the implementation plan or enforceable under the implementation plan, and that the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the implementation plan, or that are otherwise "federally enforceable."

d. The limitations, controls, and requirements in the permit in question are permanent, quantifiable, and otherwise enforceable as a practical matter.

e. The permit in question was issued only after adequate and timely notice and opportunity for comment by EPA and the public.

7. Limitations and conditions in a regulation of the board or program that has been approved by EPA under Subpart

E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

8. Individual consent agreements that EPA has legal authority to create.

"Federal hazardous air pollutant new source review (NSR) program" means a program for the preconstruction review and approval of the construction, reconstruction or modification of any stationary source in accordance with regulations specified in subdivisions 1 through 3 of this definition and promulgated to implement the requirements of § 112 (relating to hazardous air pollutants) of the federal Clean Air Act. Any permit issued under this program is a major NSR permit.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07, 40 CFR 61.08 and 40 CFR 61.15 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61.

2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for Subparts B, D and E.

3. The provisions of 40 CFR 63.50 through 40 CFR 63.56 for issuing Notices of MACT Approval prior to the construction of a new emissions unit.

"Federal hazardous air pollutant new source review (NSR) permit" means a permit issued under the federal hazardous air pollutant new source review program.

"Federal operating permit" means a permit issued under the federal operating permit program.

"Federal operating permit program" means an operating permit system (i) for issuing terms and conditions for major stationary sources, (ii) established to implement the requirements of Title V of the federal Clean Air Act and associated regulations, and (iii) codified in Article 1 (9VAC5-80-50 et seq.), Article 2 (9VAC5-80-310 et seq.), Article 3 (9VAC5-80-360 et seq.), and Article 4 (9VAC5-80-710 et seq.) of Part II of this chapter.

"Major new source review (NSR) permit" means a permit issued under the major new source review program.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of Part II of this chapter.

"Minor new source review (NSR) permit" means a permit issued under the minor new source review program.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for regulated air pollutants from new stationary sources or projects that are not subject to review under the major new source review program, (ii) established to implement the requirements of §§ 110 (a)(2)(C) and 112 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9VAC5-80-1100 et seq.) of Part II of this chapter. The minor NSR program may also be used to implement the terms and conditions designated as state-only enforceable; however, those terms and conditions shall not be applicable federal requirements.

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for regulated air pollutants from new stationary sources or projects (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 110 (a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations, and (iii) Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of Part II of this chapter. The NSR program may also be used to implement the terms and conditions designated as state-only enforceable; however, those terms and conditions shall not be applicable federal requirements.

"Nonattainment major new source review (NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of § 173 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 9 (9VAC5-80-2000 et seq.) of Part II of this chapter. Any permit issued under this program is a major NSR permit.

"Nonattainment major new source review (NSR) permit" means a permit issued under the nonattainment major new source review program.

"Permit action" means the activities associated with, and preliminary to, a decision of the board to approve, approve with conditions, or disapprove permit applications; actions to amend or modify permit terms or conditions; actions to renew, reopen, invalidate, suspend, revoke or enforce permit terms or conditions. The term "permit action" does not include actions to combine permit terms and conditions.

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provided there are no changes to any permit term or condition.

"Prevention of Significant Deterioration (PSD) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of § 165 of the federal Clean Air Act and associated regulations, and (iii) codified in Article 8 (9VAC5-80-1605 et seq.) of Part II of this chapter. Any permit issued under this program is a major NSR permit.

"Prevention of Significant Deterioration permit" means a permit issued under the Prevention of Significant Deterioration program.

"Public comment period" means a time during which the public shall have the opportunity to comment on the permit application information (exclusive of confidential information) for a new stationary source or project, the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Public hearing" means, unless indicated otherwise, an informal proceeding, similar to that provided for in § 2.2-4007 of the Administrative Process Act, held to afford people an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"Public participation process" means any element of a board or department decision-making process that provides an opportunity to submit views and data relative to a matter on which a decision of the board is pending.

"State operating permit" means a permit issued under the state operating permit program.

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources, (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability, and (iii) codified in Article 5 (9VAC5-80-800 et seq.) of Part II of this chapter.

9VAC5-80-15. Applicability.

A. The provisions of this part, unless specified otherwise, shall apply to only permit actions subject to a public participation process.

B. The provisions of this part do not apply to the appeal of the promulgation of regulations or variances. Appeals of the promulgation of regulations and variances shall be pursued under § 10.1-1317 of the Virginia Air Pollution Control Law and § 2.2-4026 of the Administrative Process Act.

C. The provisions of this part do not apply to the appeal of case decisions and other actions or inactions of the board.

9VAC5-80-25. Direct consideration of permit actions by the board.

A. During the public hearing comment period on a permit action, interested persons may request that the board directly consider the permit action pursuant to the requirements of this section. The public participation process requirements for the permit programs subject to this section are specified in subdivisions 1 through 4 of this subsection.

1. 9VAC5-80-1170 for the minor new source review (minor NSR) program.
2. 9VAC5-80-1460 for the federal hazardous air pollutant new source review (NSR) program.
3. 9VAC5-80-1775 for the Prevention of Significant Deterioration (PSD) program.
4. 9VAC5-80-2070 for the nonattainment major new source review (NSR) program.

B. Requests for board consideration shall contain the following information:

1. The name, mailing address, and telephone number of the requester;
2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person);
3. The reason why board consideration is requested;
4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial, amendment, or revocation of the permit in question; and
5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

C. Upon completion of the public comment period on a permit action, the director shall review all timely requests for board consideration filed during the public comment period on the permit action and within 30 calendar days following the expiration of the time period for the submission of requests shall grant board consideration after the public hearing, unless the permittee or applicant agrees to a later date, if the director finds the following:

1. That there is a significant public interest in the issuance, denial, amendment, or revocation of the permit in question as evidenced by receipt of a minimum of 25 individual requests for board consideration;

2. That the requesters raise substantial, disputed issues relevant to the issuance, denial, amendment, or revocation of the permit in question; and

3. That the action requested by the interested party is not on its face inconsistent with, or in violation of, the Virginia Air Pollution Control Law, federal law or any regulation promulgated thereunder.

D. Either the director or a majority of the board members, acting independently, may request a meeting of the board to be convened within 20 days of the director's decision pursuant to subsection C of this section in order to review such decision and determine by a majority vote of the board whether or not to grant board consideration, or to delegate the permit to the director for the director's decision. For purposes of this subsection, if a board meeting is held via electronic communication, the board shall have at least one forum open to the public and individual board members may participate from any location regardless of whether it is open to the public.

E. The director shall, forthwith, notify by mail at the director's last known address (i) each requester and (ii) the applicant or permittee of the decision to grant or deny board consideration.

F. In addition to subsections C, D, and E of this section, the director may, in his discretion, submit a permit action to the board for its consideration.

G. After the close of the public hearing comment period, the board shall, at a regular or special meeting, take final action on the permit. Such decision shall be issued within 90 days of the close of the public comment period or from a later date, as agreed to by the permittee or applicant and the board or the director.

H. Persons who commented during the public comment period shall be afforded an opportunity at the board meeting when final action is scheduled to respond to any summaries of the public comments prepared by the department for the board's consideration subject to such reasonable limitations on the time permitted for oral testimony or presentation of repetitive material as are determined by the board.

I. In making its decision, the board shall consider (i) the verbal and written comments received during the public comment period made part of the record, (ii) any explanation of comments previously received during the public comment period made at the board meeting, (iii) the comments and recommendation of the department, and (iv) the agency files. When the decision of the board is to adopt the recommendation of the department, the board shall provide in

writing a clear and concise statement of the legal basis and justification for the decision reached. When the decision of the board varies from the recommendation of the department, the board shall, in consultation with legal counsel, provide a clear and concise statement explaining the reason for the variation and how the board's decision is in compliance with applicable laws and regulations. The written statement shall be provided contemporaneously with the decision of the board. Copies of the decision, certified by the director, shall be mailed by certified mail to the permittee or applicant.

9VAC5-80-35. Public hearings to contest permit actions.

A. During the public comment period on a permit action, interested persons may request a public hearing on the permit action pursuant to the requirements of this section. The public participation process requirements for the permit programs subject to this section are specified in subdivisions 1 and 2 of this subsection.

1. 9VAC5-80-270 and 9VAC5-80-670 for the federal (Title V) operating permit program.

2. 9VAC5-80-1020 for the state operating permit program.

B. Requests for a public hearing shall contain the following information:

1. The name, mailing address, and telephone number of the requester;

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person);

3. The reason why a public hearing is requested;

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial, amendment, or revocation of the permit in question; and

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

C. Upon completion of the public comment period on a permit action, the director shall review all timely requests for public hearing filed during the public comment period on the permit action and within 30 calendar days following the expiration of the time period for the submission of requests shall grant a public hearing, unless the permittee or applicant agrees to a later date, if the director finds the following:

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1. That there is a significant public interest in the issuance, denial, amendment, or revocation of the permit in question as evidenced by receipt of a minimum of 25 individual requests for a public hearing;

2. That the requesters raise substantial, disputed issues relevant to the issuance, denial, amendment, or revocation of the permit in question; and

3. That the action requested by the interested party is not on its face inconsistent with, or in violation of, the Virginia Air Pollution Control Law, federal law or any regulation promulgated thereunder.

D. Either the director or a majority of the board members, acting independently, may request a meeting of the board to be convened within 20 days of the director's decision pursuant to subsection C of this section in order to review such decision and determine by a majority vote of the board whether or not to grant a public hearing. For purposes of this subsection, if a board meeting is held via electronic communication, the board shall have at least one forum open to the public and individual board members may participate from any location regardless of whether it is open to the public.

E. The director shall, forthwith, notify by mail at the director's last known address (i) each requester and (ii) the applicant or permittee of the decision to grant or deny a public hearing.

F. In addition to subsections C, D, and E of this section, the director may, in the director's discretion, convene a public hearing on a permit action.

G. If a determination is made to hold a public hearing, the director shall schedule the hearing at a time between 45 and 75 days after mailing of the notice required by subsection E of this section.

H. The director shall cause, or require the applicant to publish, notice of a public hearing to be published once, in a newspaper of general circulation in the city or county where the facility or operation that is the subject of the permit or permit application is located, at least 30 days before the hearing date.

I. The director may, on the director's own motion or at the request of the applicant or permittee, for good cause shown, reschedule the date of the public hearing. In the event the director reschedules the date for the public hearing after notice has been published, the director shall, or require the applicant to, provide reasonable notice of the new date of the public hearing. Such notice shall be published once in the same newspaper where the original notice was published.

J. Public hearings held pursuant to these procedures may be conducted by the board at a regular or special meeting of the board and shall be presided over by a member of the board.

Public hearings may be held before less than a quorum of the board.

K. The presiding board member shall have the authority to maintain order, preserve the impartiality of the decision process, and conclude the hearing process expeditiously. The presiding board member, in order to carry out his responsibilities under this subsection, is authorized to exercise the following powers, including but not limited to:

1. Prescribing the methods and procedures to be used in the presentation of factual data, arguments, and proof orally and in writing including the imposition of reasonable limitations on the time permitted for oral testimony;

2. Consolidating the presentation of factual data, arguments, and proof to avoid repetitive presentation of them;

3. Ruling on procedural matters; and

4. Acting as custodian of the record of the public hearing causing all notices and written submittals to be entered in it.

L. The public comment period will remain open for 15 days after the close of the public hearing if required by § 10.1-1307.01 of the Code of Virginia.

M. When the public hearing is conducted by less than a quorum of the board, the department shall, promptly after the close of the public hearing comment period, make a report to the board.

N. After the close of the public hearing comment period, the board shall, at a regular or special meeting, take final action on the permit. Such decision shall be issued within 90 days of the close of the public comment period or from a later date, as agreed to by the permittee or applicant and the board or the director.

O. When the public hearing was conducted by less than a quorum of the board, persons who commented during the public comment period shall be afforded an opportunity at the board meeting when final action is scheduled to respond to any summaries of the public comments prepared by the department for the board's consideration subject to such reasonable limitations on the time permitted for oral testimony or presentation of repetitive material as are determined by the board.

P. In making its decision, the board shall consider (i) the verbal and written comments received during the public comment period made part of the record, (ii) any explanation of comments previously received during the public comment period made at the board meeting, (iii) the comments and recommendation of the department, and (iv) the agency files. When the decision of the board is to adopt the recommendation of the department, the board shall provide in writing a clear and concise statement of the legal basis and

justification for the decision reached. When the decision of the board varies from the recommendation of the department, the board shall, in consultation with legal counsel, provide a clear and concise statement explaining the reason for the variation and how the board's decision is in compliance with applicable laws and regulations. The written statement shall be provided contemporaneously with the decision of the board. Copies of the decision, certified by the director, shall be mailed by certified mail to the permittee or applicant.

9VAC5-80-150. Action on permit application.

A. A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

1. The board has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under 9VAC5-80-120.
2. Except for modifications qualifying for minor permit modification procedures under 9VAC5-80-210 or 9VAC5-80-220, the board has complied with the requirements for public participation under 9VAC5-80-270.
3. The board has complied with the requirements for notifying and responding to affected states under 9VAC5-80-290.
4. The conditions of the permit provide for compliance with all applicable requirements, the requirements of Article 2 (9VAC5-80-310 et seq.) of this part, and the requirements of this article.
5. The administrator has received a copy of the proposed permit and any notices required under 9VAC5-80-290 A and 9VAC5-80-290 B and has not objected to issuance of the permit under 9VAC5-80-290 C within the time period specified therein.

B. The Except for permit revisions, as required by the provisions of 9VAC5-80-200, 9VAC5-80-210, 9VAC5-80-220 or 9VAC5-80-230, the board shall take final action on each permit application (including a request for permit modification or renewal) no later than 18 months after a complete application is received by the board, with the following exceptions: except in cases where a public hearing to provide the opportunity for interested persons to contest the application is granted pursuant to 9VAC5-80-35. The board will review any request made under 9VAC5-80-270 E 2, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.

~~1. For sources not deferred under 9VAC5 80 50 D, one-third of the initial permits shall be issued in each of the three years following the administrator's approval of this article, to include approval for federal delegation purposes.~~

~~2. For permit revisions, as required by the provisions of 9VAC5-80-200, 9VAC5-80-210, 9VAC5-80-220 or 9VAC5-80-230.~~

C. Issuance of permits under this article shall not take precedence over or interfere with the issuance of preconstruction permits under the new source review program.

D. The board shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The board shall send this statement to the administrator and to any other person who requests it.

E. Within five days after receipt of the issued permit, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

9VAC5-80-230. Significant modification procedures.

A. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications under 9VAC5-80-210 or 9VAC5-80-220 or as administrative amendments under 9VAC5-80-200. Significant modification procedures shall be used for those permit modifications that:

1. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.
2. Require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts made under ~~9VAC5 Chapter 40 (9VAC5 40 10 et seq.), 9VAC5 Chapter 50 (9VAC5 50 10 et seq.) or 9VAC5 Chapter 60 (9VAC5 60 10 et seq.)~~ 9VAC5-40 (Existing Stationary Sources), 9VAC5-50 (New and Modified Stationary Sources), or 9VAC5-60 (Hazardous Air Pollutant Sources), or a visibility or increment analysis carried out under this chapter.

3. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:

- a. A federally enforceable emissions cap assumed to avoid classification as a Title I modification.
- b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act (early reduction of hazardous air pollutants).

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B. An application for a significant permit modification shall meet the requirements of 9VAC5-80-80 and 9VAC5-80-90 for permit issuance and renewal for the modification proposed and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable federal requirements that will apply if the change occurs.
2. A suggested draft permit prepared by the applicant.
3. Completed forms for the board to use to notify the administrator and affected states as required under 9VAC5-80-290.

C. The provisions of 9VAC5-80-290 shall be carried out for significant permit modifications in the same manner as they would be for initial permit issuance and renewal.

D. The provisions of 9VAC5-80-270 shall apply to applications made under this section.

E. The board shall take final action on significant permit modifications within nine months after receipt of a complete application.

F. The owner shall not make the change applied for in the significant modification application until the modification is approved by the board under subsection E of this section.

G. The provisions of 9VAC5-80-140 shall apply to changes made under this section.

9VAC5-80-270. Public participation.

A. Except for modifications qualifying for minor permit modification procedures and administrative permit amendments, draft permits for initial permit issuance, significant modifications, and renewals shall be subject to a public comment period of at least 30 days. The board shall notify the public using the procedures in subsection B of this section.

B. The board shall notify the public of the draft permit or draft permit modification (i) by advertisement in a newspaper of general circulation in the area where the source is located and (ii) through a notice to persons on a permit mailing list who have requested such information of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section.

C. Provisions for the content of the public notice and availability of information shall be as follows:

1. The notice shall include, but not be limited to, the following:
 - a. The source name, address and description of specific location.
 - b. The name and address of the permittee.

c. The name and address of the regional office processing the permit.

d. The activity or activities for which the permit action is sought.

e. The emissions change that would result from the permit issuance or modification.

f. The name, address, and telephone number of a department contact from whom interested persons may obtain additional information, including copies of the draft permit or draft permit modification, the application, and all relevant supporting materials, including the compliance plan.

g. A brief description of the comment procedures required by this section.

h. A brief description of the procedures to be used to request a hearing or the time and place of the public hearing if the board determines to hold a hearing under subdivision E 3 of this section.

2. Information on the permit application (exclusive of confidential information under 9VAC5-20-150), as well as the draft permit or draft permit modification, shall be available for public inspection during the entire public comment period at the regional office.

D. The board shall provide such notice and opportunity for participation by affected states as is provided for by 9VAC5-80-290.

E. Provisions for public hearing shall be as follows:

1. The board shall provide an opportunity for a public hearing as described in subdivisions 2 through 6 of this subsection.

2. Following the initial publication of ~~the notice of a public comment period~~ required under subsection B of this section, the board will receive written requests for a public hearing to ~~consider~~ contest the draft permit or draft permit modification pursuant to the requirements of 9VAC5-80-35. ~~The~~ In order to be considered, the request shall be submitted within 30 days of the appearance of the notice in the newspaper no later than the end of the comment period. Request for a public hearing shall contain the following information:

a. The name, mailing address and telephone number of the requester.

b. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

c. The reason why a public hearing is requested, ~~including the air quality concern that forms the basis for the request.~~

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the draft permit or draft permit modification, including information on how the operation of the facility under consideration affects the requester an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial, modification, or revocation of the permit in question.

e. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

~~3. The board shall review all requests for public hearing filed as required under subdivision 2 of this subsection and within 30 calendar days following the expiration of the public comment period shall grant a public hearing if it finds both of the following: will review any request made under subdivision 2 of this subsection, and will take final action on the request as provided in 9VAC5-80-150 B.~~

~~a. There is significant public interest in the air quality issues raised by the permit application in question.~~

~~b. There are substantial, disputed air quality issues relevant to the permit application in question.~~

~~4. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain the basis for the decision to grant or deny a public hearing. If the public hearing is granted, the notice shall contain a description of procedures for the public hearing.~~

~~5. If the board decides to hold a public hearing, the hearing shall be scheduled at least 30 and no later than 60 days after mailing the notification required in subdivision 4 of this subsection.~~

~~6. The procedures for notification to the public and availability of information used for the public comment period as provided in subsection C of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.~~

~~7. As an alternative to the requirements of subdivisions 1 through 6 of this subsection, the board may hold a public hearing if an applicant requests that a public hearing be held or if, prior to the public comment period, the board determines that the conditions in subdivisions 3 a and b of this subsection pertain to the permit application in question.~~

~~8. The board may hold a public hearing for more than one draft permit or draft permit modification if the location for~~

~~the public hearing is appropriate for the sources under consideration and if the public hearing time expected for each draft permit or draft permit modification will provide sufficient time for public concerns to be heard.~~

~~9. Written comments shall be accepted by the board for at least 15 days after the hearing.~~

F. The board shall keep a record of the commenters and a record of the issues raised during the public participation process so that the administrator may fulfill ~~his~~ the administrator's obligation under § 505(b)(2) of the federal Clean Air Act to determine whether a citizen petition may be granted. Such records shall be made available to the public upon request.

9VAC5-80-510. Action on permit application.

A. The board shall take final action on each permit application (including a request for permit modification or renewal) as follows:

1. The board shall issue or deny all permits in accordance with the requirements of this article and this section, including the completeness determination, draft permit, administrative record, statement of basis, public notice and comment period, public hearing, proposed permit, permit issuance, permit revision, and appeal procedures as amended by 9VAC5-80-660 C.

2. For permit revisions, as required by the provisions of 9VAC5-80-500 through 9VAC5-80-630.

B. A permit, permit modification, or renewal may be issued only if all of the following conditions have been met:

1. The board has received a complete application for a permit, permit modification, or permit renewal.

2. Except for modifications qualifying for minor permit modification procedures under 9VAC5-80-570 or 9VAC5-80-580, the board has complied with the requirements for public participation under 9VAC5-80-670.

3. The board has complied with the requirements for notifying and responding to affected states under 9VAC5-80-690.

4. The conditions of the permit provide for compliance with all applicable requirements, the requirements of Article 2 (9VAC5-80-310 et seq.) of this part, and the requirements of this article.

5. The administrator has received a copy of the proposed permit and any notices required under 9VAC5-80-690 A and B and has not objected to issuance of the permit under 9VAC5-80-690 C within the time period specified therein.

C. The issuance of the acid rain portion of the federal operating permit shall be as follows:

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1. After the close of the public comment period, the board shall incorporate all necessary changes and issue or deny a proposed acid rain permit.

2. The board shall submit the proposed acid rain permit or denial of a proposed acid rain permit to the administrator in accordance with 9VAC5-80-690, the provisions of which shall be treated as applying to the issuance or denial of a proposed acid rain permit.

3. Action by the administrator shall be as follows:

a. Following the administrator's review of the proposed acid rain permit or denial of a proposed acid rain permit, the board or, under 9VAC5-80-690 C, the administrator shall incorporate any required changes and issue or deny the acid rain permit in accordance with 9VAC5-80-490 and 9VAC5-80-500.

b. No acid rain permit (including a draft or proposed permit) shall be issued unless the administrator has received a certificate of representation for the designated representative of the source in accordance with Subpart B of 40 CFR Part 72.

4. Permit issuance deadlines and effective dates shall be as follows:

a. The board shall issue an acid rain permit to each affected source whose designated representative submitted in accordance with 9VAC5-80-430 G a timely and complete acid rain permit application by January 1, 1996, that meets the requirements of this article. The permit shall be issued by the effective date specified in subdivision 4 c of this subsection.

b. Not later than January 1, 1999, the board shall reopen the acid rain permit to add the acid rain program nitrogen oxides requirements, provided that the designated representative of the affected source submitted a timely and complete acid rain permit application for nitrogen oxides in accordance with 9VAC5-80-430 G. Such reopening shall not affect the term of the acid rain portion of a federal operating permit.

c. Each acid rain permit issued in accordance with subdivision 4 a of this subsection shall take effect by the later of January 1, 1998, or, where the permit governs a unit under 9VAC5-80-380 A 3, the deadline for monitor certification under 40 CFR Part 75.

d. Both the acid rain draft and final permit shall state that the permit applies on and after January 1, 2000. The draft and final permit shall also specify which applicable requirements are effective prior to January 1, 2000, and the effective date of those applicable requirements.

e. Each acid rain permit shall have a term of five years commencing on its effective date.

f. An acid rain permit shall be binding on any new owner or operator or designated representative of any source or unit governed by the permit.

5. Each acid rain permit shall contain all applicable acid rain requirements, shall be a portion of the federal operating permit that is complete and segregable from all other air quality requirements, and shall not incorporate information contained in any other documents, other than documents that are readily available.

6. Invalidation of the acid rain portion of a federal operating permit shall not affect the continuing validity of the rest of the operating permit, nor shall invalidation of any other portion of the operating permit affect the continuing validity of the acid rain portion of the permit.

D. The board shall take final action on each permit application (including a request for a permit modification or renewal) no later than 18 months after a complete application is received by the board, except for initial permits in cases where a public hearing to provide the opportunity for interested persons to contest the application is granted pursuant to 9VAC5-80-35. The board will review any request made under 9VAC5-80-670 E 2, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter. The initial permits issued under this article shall be issued by the effective date specified in subdivision C 4 c of this section.

E. Issuance of permits under this article shall not take precedence over or interfere with the issuance of preconstruction permits under the new source review program.

F. The board shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions) as follows. The board shall send this statement to the administrator and to any other person who requests it.

1. The statement of basis shall briefly set forth significant factual, legal, and policy considerations on which the board relied in issuing or denying the draft permit.

2. The statement of basis shall include the reasons, and supporting authority, for approval or disapproval of any compliance options requested in the permit application, including references to applicable statutory or regulatory provisions and to the administrative record.

3. The board shall submit to the administrator a copy of the draft acid rain permit and the statement of basis and all other relevant portions of the federal operating permit that may affect the draft acid rain permit.

G. Within five days after receipt of the issued permit, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

9VAC5-80-590. Significant modification procedures.

A. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications under 9VAC5-80-570 or 9VAC5-80-580 or as administrative amendments under 9VAC5-80-560. Significant modification procedures shall be used for those permit modifications that:

1. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

2. Require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts made under ~~9VAC5 Chapter 40 (9VAC5 40 10 et seq.), 9VAC5 Chapter 50 (9VAC5 50 10 et seq.), or 9VAC5 Chapter 60 (9VAC5 60 10 et seq.)~~ 9VAC5-40 (Existing Stationary Sources), 9VAC5-50 (New and Modified Stationary Sources), or 9VAC5-60 (Hazardous Air Pollutant Sources), or a visibility or increment analysis carried out under this chapter.

3. Seek to establish or change a permit term or condition for which there is no corresponding underlying applicable federal requirement and that the source has assumed to avoid an applicable federal requirement to which the source would otherwise be subject. Such terms and conditions include:

- a. A federally enforceable emissions cap assumed to avoid classification as a Title I modification.

- b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act (early reduction of hazardous air pollutants).

B. An application for a significant permit modification shall meet the requirements of 9VAC5-80-430 and 9VAC5-80-440 for permit issuance and renewal for the modification proposed and shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable federal requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

3. Completed forms for the board to use to notify the administrator and affected states as required under 9VAC5-80-690.

C. The provisions of 9VAC5-80-690 shall be carried out for significant permit modifications in the same manner as they would be for initial permit issuance and renewal.

D. The provisions of 9VAC5-80-670 shall apply to applications made under this section.

E. The board shall take final action on significant permit modifications within nine months after receipt of a complete application.

F. The owner shall not make the change applied for in the significant modification application until the modification is approved by the board under subsection E of this section.

G. The provisions of 9VAC5-80-500 shall apply to changes made under this section.

9VAC5-80-670. Public participation.

A. Except for modifications qualifying for minor permit modification procedures and administrative permit amendments, draft permits for initial permit issuance, significant modifications, and renewals shall be subject to a public comment period of at least 30 days. The board shall notify the public using the procedures in subsection B of this section.

B. The board shall notify the public of the draft permit or draft permit modification (i) by advertisement in a newspaper of general circulation in the area where the source is located and (ii) through a notice to persons on a permit mailing list who have requested such information of the opportunity for public comment on the information available for public inspection under the provisions of subsection C of this section.

C. The following requirements apply with respect to content of the public notice and availability of information:

1. The notice shall include, but not be limited to, the following:

- a. The source name, address and description of specific location.

- b. The name and address of the permittee.

- c. The name and address of the regional office processing the permit.

- d. The activity or activities for which the permit action is sought.

- e. The emissions change that would result from the permit issuance or modification.

- f. The name, address, and telephone number of a department contact from whom interested persons may obtain additional information, including copies of the draft permit or draft permit modification, the application, and all relevant supporting materials, including the compliance plan.

- g. A brief description of the comment procedures required by this section.

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h. A brief description of the procedures to be used to request a hearing or the time and place of the public hearing if the board determines to hold a hearing under subdivision E 3 of this section.

2. Information on the permit application (exclusive of confidential information under 9VAC5-20-150), as well as the draft permit or draft permit modification, shall be available for public inspection during the entire public comment period at the regional office.

D. The board shall provide such notice and opportunity for participation by affected states as is provided for by 9VAC5-80-690.

E. The following requirements apply with respect to opportunity for public hearing:

1. The board shall provide an opportunity for a public hearing as described in subdivisions 2 through 6 of this subsection.

2. Following the initial publication of ~~the notice of a public comment period required under subsection B of this section~~, the board shall receive written requests for a public hearing to ~~consider~~ contest the draft permit or draft permit modification pursuant to the requirements of 9VAC5-80-35. ~~The~~ In order to be considered, the request shall be submitted ~~within 30 days of the appearance of the notice in the newspaper no later than the end of the comment period~~. Request for a public hearing shall contain the following information:

a. The name, mailing address and telephone number of the requester.

b. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

c. The reason why a public hearing is requested, ~~including the air quality concern that forms the basis for the request~~.

d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the draft permit or draft permit modification, including information on how the operation of the facility under consideration affects the requester an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial, modification, or revocation of the permit in question.

e. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to

conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

~~3. The board shall review all requests for public hearing filed as required under subdivision E 2 of this section and, within 30 calendar days following the expiration of the public comment period, shall grant a public hearing if it finds both of the following: will review any request made under subdivision 2 of this subsection, and will take final action on the request as provided in 9VAC5-80-510 D.~~

~~a. There is significant public interest in the air quality issues raised by the permit application in question.~~

~~b. There are substantial, disputed air quality issues relevant to the permit application in question.~~

~~4. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain the basis for the decision to grant or deny a public hearing. If the public hearing is granted, the notice shall contain a description of procedures for the public hearing.~~

~~5. If the board decides to hold a public hearing, the hearing shall be scheduled at least 30 and no later than 60 days after mailing the notification required in subdivision 4 of this subsection.~~

~~6. The procedures for notification to the public and availability of information used for the public comment period as provided in subsection C of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.~~

~~7. As an alternative to the requirements of subdivisions 1 through 6 of this subsection, the board may hold a public hearing if an applicant requests that a public hearing be held or if, prior to the public comment period, the board determines that the conditions in subdivisions 3 a and b of this subsection pertain to the permit application in question.~~

~~8. The board may hold a public hearing for more than one draft permit or draft permit modification if the location for the public hearing is appropriate for the sources under consideration and if the public hearing time expected for each draft permit or draft permit modification will provide sufficient time for public concerns to be heard.~~

~~9. Written comments shall be accepted by the board for at least 15 days after the hearing.~~

F. The board shall keep (i) a record of the commenters and (ii) a record of the issues raised during the public participation process so that the administrator may fulfill ~~his~~ the administrator's obligation under § 505(b)(2) of the federal Clean Air Act to determine whether a citizen petition may be granted. Such records shall be made available to the public upon request.

9VAC5-80-860. Action on permit application.

A. After receipt of an application or any additional information, the board shall advise the applicant in writing of any deficiency in such application or information no later than 30 days after receipt of the application or additional information.

~~B. If no public comment period is required, processing~~ The board will normally process an application according to the steps specified in subdivisions 1 through 5 of this subsection. Processing time for a permit these steps is normally 90 days following receipt of a complete application. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required needed. Processing steps may include, but not be limited to:

- ~~1. Completion of~~ Complete the preliminary review and analysis in accordance with 9VAC5-80-870 and the preliminary ~~decision~~ determination of the board;
- ~~2. Inspection of~~ Inspect the stationary source or emissions unit, provided an inspection has not been conducted within the last six months;
- ~~3. Public comment period, when~~ When required by, complete the public participation requirements in accordance with 9VAC5-80-1020; and
- ~~4. Consider the public comments received in accordance with 9VAC5-80-1020; and~~
- ~~4. Completion of~~ 5. Complete the final review and analysis and the final ~~decision~~ determination of the board.

~~C. The board will normally take final action on all complete applications an application after completion of the review and analysis, unless more information is needed steps in subsection B of this section except in cases where a public hearing to provide the opportunity for interested persons to contest the application is granted pursuant to 9VAC5-80-35. The board will review any request made under 9VAC5-80-1020 C, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.~~

D. The board shall issue the permit or notify the applicant in writing of its decision, with its reasons, not to issue the permit.

~~D.~~ E. Within five days after receipt of the permit pursuant to subsection B of this section, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

~~E.~~ F. Appeals of decisions rendered pursuant to this article shall follow the procedures outlined in Part VIII (9VAC5-

170-190 et seq.) of ~~9VAC5 Chapter 170~~ 9VAC5-170 (Regulation for General Administration).

9VAC5-80-990. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requests for permit amendments that do not qualify as minor permit amendments under 9VAC5-80-980 or as administrative amendments under 9VAC5-80-970.

2. Significant amendment procedures shall be used for those permit amendments that:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act.

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

C. The provisions of 9VAC5-80-1020 shall apply to applications made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request. If a public comment period is required, processing time for a request is normally 180 days following receipt of a complete request except in cases where a public hearing to provide the opportunity for interested persons to contest the request is granted pursuant to 9VAC5-80-35. The board may extend this time period if additional information is needed.

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E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

9VAC5-80-1020. Public participation.

A. Prior to the decision of the board, permit applications for permits containing provisions that are necessary for the permit to be federally enforceable shall be subject to a public comment period of at least 30 days.

B. When a public comment period is required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment on the information available for public inspection under the provisions of subsection A of this section. The notification shall be published at least 30 days prior to the day of the public hearing.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60, as well as the preliminary review and analysis and ~~tentative preliminary~~ preliminary determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice shall be sent to all affected local air pollution control agencies, to all states sharing the affected air quality control region, to the regional administrator of the U.S. Environmental Protection Agency, and to any other governmental entity required to be notified under state or federal law or regulation.

C. Following the initial publication of ~~the notice of a public comment period required under subsection B of this section,~~ the board will receive written requests for a public hearing to ~~reconsider~~ contest the ~~tentative preliminary~~ determination of the board pursuant to the requirements of 9VAC5-80-35. ~~The In order to be considered, the request shall be submitted within 30 days of the appearance of the notice in the newspaper no later than the end of the comment period.~~ Request for a public hearing shall contain the following information:

1. The name, mailing address, and telephone number of the requester;
2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person);
3. The reason why a public hearing is requested; ~~and~~
4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary

determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the ~~decision of the board~~ issuance, denial, amendment, or revocation of the permit in question; and

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

~~D. The board will normally review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper; and normally within 30 calendar days following the expiration of the public comment period will grant a public hearing if it finds the following: The board will review any request made under subsection C of this section, and will take final action on the request as provided in 9VAC5-80-860 C.~~

~~1. There is significant public interest in the permit application in question; and~~

~~2. There are substantial, disputed issues relevant to the permit application in question.~~

~~E. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of procedures for the public hearing and for the final decision under this section.~~

~~F. If the board decides to hold a public hearing, the hearing will normally be scheduled at a time between 30 and 60 days after mailing the notification required in subsection E of this section.~~

~~G. The procedures for notification to the public and availability of information used for the public comment period or provided in subsection B of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.~~

9VAC5-80-1160. Action on permit application.

A. Within 30 days after receipt of an application, the board will notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application will be provided by the board in writing and will include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board will notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application for

processing under subsection B of this section shall be the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

~~B. If no public comment period is required, processing~~ The board will normally process an application according to the steps specified in subdivisions 1 through 4 of this subsection. ~~Processing time for a permit these steps~~ is normally 90 days following receipt of a complete application. ~~If a public comment period hearing is required, processing time for a permit~~ is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is ~~required or if a public hearing is conducted under 9VAC5-80-1170 needed.~~ Processing steps may include, but not be limited to, the following:

1. ~~Completion of Complete~~ the preliminary review and analysis in accordance with 9VAC5-80-1190 and the preliminary ~~decision determination~~ of the board. This step may constitute the final step if the provisions of 9VAC5-80-1170 concerning public participation are not applicable.

2. When required, ~~completion of complete~~ the public participation requirements in accordance with 9VAC5-80-1170.

3. Consider the public comments received in accordance with 9VAC5-80-1170.

~~3. Completion of 4. Complete~~ the final review and analysis and the final ~~decision determination~~ of the board.

~~C. The board will normally take final action on all applications an application after completion of the review and analysis, or expiration of the public comment period (and consideration of comments from that) when required, unless more information is needed applicable steps in subsection B of this section, except in cases where direct consideration of the application by the board is granted pursuant to 9VAC5-80-25. The board will review any request made under 9VAC5-80-1170 F, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.~~

D. The board shall notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with 9VAC5-80-1200.

~~D. E.~~ The applicant may appeal the decision pursuant to Part VIII (9VAC5-170-190 et seq.) of 9VAC5 Chapter 170.

~~E. E.~~ Within five days after notification to the applicant pursuant to subsection C of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in 9VAC5-80-1170 E 1.

9VAC5-80-1170. Public participation.

A. No later than 15 days after receiving the initial determination notification required under 9VAC5-80-1160 A, the applicant for a permit for a major stationary source or a major modification shall notify the public of the proposed major stationary source or major modification in accordance with subsection B of this section.

B. The public notice required by subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

1. The source name, location, and type;
2. The pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;
3. The control technology proposed to be used at the time of the publication of the notice; and
4. The name and telephone number of a contact person, employed by the applicant, who can answer questions about the proposed source.

C. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public to that required in subsections A and B of this section.

D. Prior to the decision of the board, permit applications as specified below shall be subject to a public comment period of at least 30 days. At the end of the public comment period, a public hearing shall be held in accordance with subsection E of this section.

1. Applications for stationary sources of hazardous air pollutants requiring a case-by-case maximum achievable control technology determination under Article 3 (9VAC5-60-120 et seq.) of 9VAC5 Chapter 60.
2. Applications for major stationary sources and major modifications.
3. Applications for stationary sources which have the potential for public interest concerning air quality issues, as determined by the board in its discretion. The identification of such sources may be made using the following nonexclusive criteria:
 - a. Whether the project is opposed by any person;
 - b. Whether the project has resulted in adverse media;
 - c. Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and

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d. Whether the project has generated adverse comment by a local official, governing body or advisory board.

4. Applications for stationary sources for which any provision of the permit is to be based upon a good engineering practice (GEP) stack height that exceeds the height allowed by subdivisions 1 and 2 of the GEP definition. The demonstration specified in subdivision 3 of the GEP definition must be available during the public comment period.

E. When a public comment period and public hearing are required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for the public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary ~~decision~~ determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

F. Following the initial publication of the notice required under subsection E of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

G. The board will review any request made under subsection F of this section, and will take final action on the request as provided in 9VAC5-80-1160 C.

F. H. In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board shall process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

9VAC5-80-1290. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9VAC5-80-1280 or as administrative amendments under 9VAC5-80-1270.

2. Significant amendment procedures shall be used for those permit amendments that:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at ~~his~~ the applicant's discretion, include a suggested draft permit amendment.

C. The provisions of 9VAC5-80-1170 shall apply to requests made under this section if the permit is for a stationary source subject to 9VAC5-80-1170.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request. If a public ~~comment period~~ hearing is required, processing time for a permit ~~amendment~~ request ~~except in cases where direct consideration of the request by the board is granted pursuant to 9VAC5-80-25.~~ The board may extend this time period if additional information is ~~required or if a public hearing is conducted under 9VAC5-80-1170~~ needed.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

9VAC5-80-1450. Action on permit application.

A. Within 45 days after receipt of an application, the board shall notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include: (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board shall notify the applicant of any deficiencies in such information. The date of receipt of a complete application for processing under subsection B of this section shall be the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met.

B. The board will normally process an application according to the steps specified in subdivisions 1 through 5 of this subsection. Processing time for ~~a permit~~ these steps is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is ~~required~~ needed. ~~Processing steps may include, but not be limited to:~~

1. ~~Completion of~~ Complete the application review and analysis in accordance with 9VAC5-80-1480 and the preliminary decision of the board;

2. ~~Completion of~~ Complete the emission limitation review (if any);

3. ~~Completion of~~ Complete the public participation requirements in 9VAC5-80-1460; ~~and~~

4. Consider the public comments received in accordance with 9VAC5-80-1460; and

4. 5. Completion of the final review and analysis and the final ~~decision~~ determination of the board.

C. At its discretion, the board may undertake the following steps prior to commencing with the public participation requirements of 9VAC5-80-1460:

1. The board shall initially approve the recommended emission limitation and other terms set forth in the application, or the board shall notify the owner in writing of its intent to disapprove the application, within 30 calendar days after the owner is notified in writing that the application is complete.

2. The owner may present, in writing, within 60 calendar days after receipt of notice of the board's intent to disapprove the application, additional information or arguments pertaining to, or amendments to, the application for consideration by the board before it decides whether to finally disapprove the application.

3. The board shall either initially approve or issue a final disapproval of the application within 90 days after it notifies the owner of an intent to disapprove or within 30 days after the date additional information is received from the owner, whichever is earlier.

D. The board will normally take final action on ~~all applications~~ an application after ~~expiration~~ completion of the ~~public comment period (and consideration of comments from that), unless more information is needed~~ steps in subsections B and C of this section, except in cases where direct consideration of the application by the board is granted pursuant to 9VAC5-80-25. The board will review any request made under 9VAC5-80-1460 G, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.

E. The board shall notify the applicant in writing of its final decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with 9VAC5-80-1490.

E. F. A final ~~determination~~ decision by the board to disapprove any application shall be in writing and shall specify the grounds on which the disapproval is based. If any application is finally disapproved, the owner may submit a

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subsequent application concerning construction or reconstruction of the same major source, provided that the subsequent application has been amended in response to the stated grounds for the prior disapproval.

~~F. G.~~ The applicant may appeal the decision pursuant to ~~9VAC5 Chapter 170 (9VAC5 170-190 et seq.) Part VIII (9VAC5-170-190 et seq.) of 9VAC5-170 (Regulation for General Administration).~~

~~G. H.~~ Within five days after notification to the applicant pursuant to subsection B of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in 9VAC5-80-1460 H 1.

~~H. I.~~ The board shall send a copy of any final permit issued to a stationary source to the administrator through the appropriate regional office and to all other state and local air pollution control agencies having jurisdiction in affected states. Within 60 days of the issuance of the final permit, the board shall provide a copy of such permit to the administrator, and shall provide a summary in a compatible electronic format for inclusion in the MACT database.

~~I. J.~~ The effective date of a case-by-case MACT determination shall be the date the permit becomes final.

~~J. K.~~ On and after the date of startup, a constructed or reconstructed major source which is subject to the requirements of this article shall be in compliance with all applicable requirements specified in the permit.

9VAC5-80-1460. Public participation.

A. No later than 15 days after receiving the initial determination notification required under 9VAC5-80-1450 A, the applicant for a permit for a major source of hazardous air pollutants shall notify the public of the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the following:

1. The source name, location, and type;
2. The applicable pollutants and the total quantity of each which the applicant estimates will be emitted, and a brief statement of the air quality impact of such pollutants;
3. The control technology proposed to be used at the time of the publication of the notice;

4. The date, time and place of the informational briefing; and

5. The name and telephone number of a contact person employed by the applicant who can answer questions about the proposed source.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board shall attend and provide information and answer questions on the permit application review process.

D. Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. Prior to the decision of the board, all permit applications shall be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing will be held with notice in accordance with subsection F of this section.

~~F. No sooner than 30 days after the start of the public comment period, a public hearing shall be held in accordance with this section for any application which has the potential for public interest concerning air quality issues as determined by the board on the basis of the following criteria:~~

- ~~1. Whether the project is opposed by any person;~~
- ~~2. Whether the project has resulted in adverse publicity;~~
- ~~3. Whether the project has generated adverse comment through any public participation or governmental review process initiated by any other governmental agency; and~~
- ~~4. Whether the project has generated adverse comment by a local official, governing body or advisory board.~~

~~G. F.~~ The board shall notify the public by advertisement in at least one newspaper of general circulation in the area affected of the opportunity for the public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. Written comments

will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary ~~decision~~ determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected area.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional EPA administrator.

3. Notices of public hearings published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-1450 D.

~~H. I.~~ In order to facilitate the efficient issuance of permits under Articles 1 and 3 of this chapter, upon request of the applicant the board shall process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

J. If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of subsection F of this section concerning public notification will be followed.

9VAC5-80-1765. Sources affecting federal class I areas—additional requirements.

A. The board shall transmit to the administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the administrator of the following actions related to the consideration of such permit:

1. Notification of the permit application status as provided in ~~9VAC5-80-1775~~ 9VAC5-80-1773 A.

2. Notification of the public comment period on the application as provided in 9VAC5-80-1775 F § 2.

3. Notification of the final determination on the application and issuance of the permit as provided in ~~9VAC5-80-1775 F § 9~~ 9VAC5-80-1773 D.

4. Notification of any other action deemed appropriate by the board.

B. The board shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a class I area, to the federal land manager and the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within 30 days of receipt and at least 60 days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the federal class I area. The board shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under ~~9VAC5-80-1775 F~~ 9VAC5-80-1773 B., and shall make available to them any materials used in making that determination, promptly after the board makes such determination. Finally, the board shall also notify all affected federal land managers within 30 days of receipt of any advance notification of any such permit application.

C. The federal land manager and the federal official charged with direct responsibility for management of such lands have

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an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the board, whether a proposed source or modification will have an adverse impact on such values.

D. The board shall consider any analysis performed by the federal land manager, provided within 30 days of the notification required by subsection B of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any federal class I area. Where the board finds that such an analysis does not demonstrate to the satisfaction of the board that an adverse impact on visibility will result in the federal class I area, the board shall, in the notice of public hearing on the permit application, either explain this decision or give notice as to where the explanation can be obtained.

E. The federal land manager of any such lands may demonstrate to the board that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area. If the board concurs with such demonstration, then it shall not issue the permit.

F. The owner of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a class I area. If the federal land manager concurs with such demonstration and so certifies, the board may, provided that the applicable requirements of this article are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over minor source baseline concentration for such pollutants:

MAXIMUM ALLOWABLE INCREASE
(micrograms per cubic meter)

Particulate matter:	
PM ₁₀ , annual geometric mean	17
PM ₁₀ , 24 hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
Three-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

G. The owner of a proposed source or modification that cannot be approved under subsection F of this section may demonstrate to the governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of 24 hours or less applicable to any class I area and, in the case of federal mandatory class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The governor, after consideration of the federal land manager's recommendation (if any) and subject to the federal land manager's concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the board shall issue a permit to such source or modification pursuant to the requirements of subsection I of this section, provided that the applicable requirements of this article are otherwise met.

H. In any case whether the governor recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the president. The president may approve the governor's recommendation if he finds that the variance is in the national interest. If the variance is approved, the board shall issue a permit pursuant to the requirements of subsection I of this section, provided that the applicable requirements of this article are otherwise met.

I. In the case of a permit issued pursuant to subsection G or H of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE
(micrograms per cubic meter)

Period of exposure	Low terrain areas	High terrain areas
24-hour maximum	36	62
3-hour maximum	130	221

9VAC5-80-1773. Action on permit application.

A. Within 30 days after receipt of an application, the board will notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application will be provided by the board in writing and will include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board will notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application shall be, for the purpose of this article, the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

B. The board will normally process an application according to the steps specified in subdivisions 1 through 4 of this subsection. Processing time for these steps is normally one year following receipt of a complete application. The board may extend this time period if additional information is needed.

1. Complete the preliminary review and analysis in accordance with 9VAC5-80-1705 and the preliminary determination whether construction should be approved, approved with conditions, or disapproved.
2. Complete the public participation requirements in accordance with 9VAC5-80-1775.
3. Consider the public comments received in accordance with 9VAC5-80-1775.
4. Complete the final review and analysis and the final determination of the board.

C. The board will consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing in making a final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The board will consider the applicant's response in making a final decision. The board will make all comments available

for public inspection in the same locations where the board made available preconstruction information relating to the proposed source or modification.

D. The board will make a final decision on an application after completion of the steps in subsections B and C of this section except in cases where direct consideration of the application by the board is granted pursuant to 9VAC5-80-25. The board will review any request made under 9VAC5-80-1775 G, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.

E. The board will notify the applicant in writing of the final decision and make such notification available for public inspection at the same location where the board made available preconstruction information and public comments relating to the source or modification.

F. The applicant may appeal the decision pursuant to Part VIII (9VAC5-170-190 et seq.) of 9VAC5-170 (Regulation for General Administration).

G. Within five days after notification to the applicant pursuant to subsection C of this section, the notification and any comments received pursuant to the public comment period and public hearing will be made available for public inspection at the same location as was the information in 9VAC5-80-1775 F 1.

9VAC5-80-1775. Public participation.

A. Within 30 days after receipt of an application, the board will notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application will be provided by the board in writing and will include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies and (iii) a determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board will notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application shall be, for the purpose of this article, the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

~~B. A.~~ No later than 30 days after receiving the initial determination notification required under ~~subsection A of this section~~ 9VAC5-80-1773 A, the applicant shall notify the public about the proposed source as required in subsection ~~C~~ B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection ~~D~~ C of this section.

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~~€. B.~~ The public notice required under subsection ~~B A~~ of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

~~Đ. C.~~ The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board will attend and provide information and answer questions on the permit application review process.

~~E. D.~~ Upon a determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection ~~€ B~~ of this section and for providing the informational briefing as required in subsection ~~Đ C~~ of this section.

~~F.~~ Within one year after receipt of a complete application, the board will make a final determination on the application. This involves performing the following actions in a timely manner:

~~1. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.~~

~~2. Make available in at least one location in each air quality control region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted (exclusive of confidential information under 9VAC5-170-60), a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.~~

~~3. If appropriate, hold a public briefing on the preliminary determination prior to the public comment period but no later than the day before the beginning of the public comment period. The board will notify the public of the time and place of the briefing, by advertisement in a newspaper of general circulation in the air quality control region in which the proposed source or modification would be constructed. The notification will be published at least 30 days prior to the day of the briefing.~~

~~4. Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The notification will contain a statement of the estimated local impact of the proposed source or modification, which at a minimum will provide information regarding specific pollutants and the total quantity of each which may be emitted, and will list the type and quantity of any fuels to be used. The notification will be published at least 30 days prior to the day of the hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.~~

~~5. Send a copy of the notice of public comment to the applicant, the administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief elected official and chief administrative officer of the city and county where the source or modification would be located and any other locality particularly affected, the planning district commission, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification.~~

~~6. Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.~~

~~7. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The board will consider the applicant's response in making a final decision. The board will make all comments available for public inspection in the same locations where the board made available preconstruction information relating to the proposed source or modification.~~

~~8. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this article.~~

~~9. Notify the applicant in writing of the final determination and make such notification available for public inspection~~

at the same location where the board made available preconstruction information and public comments relating to the source or modification.

E. The board will provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

F. The board will notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment. The notification will contain a statement of the estimated local impact of the proposed source or modification, which at a minimum will provide information regarding specific pollutants and the total quantity of each that may be emitted, and will list the type and quantity of any fuels to be used. The notification will be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. All materials the applicant submitted (exclusive of confidential information under 9VAC5-170-60), a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination will be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice will be sent to the applicant, the administrator and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief elected official and chief administrative officer of the city and county where the source or modification would be located and any other locality particularly affected, the planning district commission, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later

than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-1773 D.

~~G. I.~~ I. In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board will process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

J. If appropriate, the board may hold a public briefing on the preliminary determination prior to the public comment period but no later than the day before the beginning of the public comment period. The board will notify the public of the time and place of the briefing by advertisement in a newspaper of general circulation in the air quality control region in which the proposed source or modification would be constructed. The notification will be published at least 30 days prior to the day of the briefing.

9VAC5-80-1955. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor

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permit amendments under 9VAC5-80-1945 or as administrative amendments under 9VAC5-80-1935.

2. Significant amendment procedures shall be used for those permit amendments that meet any of the following criteria:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an emissions cap assumed to avoid classification as a modification under the new source review program.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at ~~his~~ the applicant's discretion, include a suggested draft permit amendment.

C. The provisions of 9VAC5-80-1775 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within ~~90~~ 180 days after receipt of a complete request, except in cases where direct consideration of the request by the board is granted pursuant to 9VAC5-80-25. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is ~~required~~ or if a public hearing is conducted under 9VAC5-80-1775 needed.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

9VAC5-80-2060. Action on permit application.

A. Within 30 days after receipt of an application, the board will notify the applicant of the status of the application. The notification of the initial determination with regard to the status of the application shall be provided by the board in writing and shall include (i) a determination as to which provisions of the new source review program are applicable, (ii) the identification of any deficiencies, and (iii) a

determination as to whether the application contains sufficient information to begin application review. The determination that the application has sufficient information to begin review is not necessarily a determination that it is complete. Within 30 days after receipt of any additional information, the board will notify the applicant in writing of any deficiencies in such information. The date of receipt of a complete application for processing under subsection B of this section shall be the date on which the board received all required information and the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met, if applicable.

~~B.~~ The board will normally process an application according to the steps specified in subdivisions 1 through 4 of this subsection. Processing time for a permit these steps is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required needed. Processing steps may include, but not be limited to, the following:

~~1. Completion of~~ Complete the preliminary review and analysis in accordance with 9VAC5-80-2090 and the preliminary ~~decision~~ determination of the board.

~~2. Completion of~~ Complete the public participation requirements in accordance with 9VAC5-80-2070.

~~3. Consider the public comments received in accordance with 9VAC5-80-2070.~~

~~3. Completion of~~ 4. Complete the final review and analysis and the final ~~decision~~ determination of the board.

C. The board will normally take final action on ~~all applications~~ an application after completion of the ~~review and analysis, or expiration of the public comment period (and consideration of comments from it) when required, unless more information is needed~~ steps in subsection B of this section, except in cases where direct consideration of the application by the board is granted pursuant to 9VAC5-80-25. The board will review any request made under 9VAC5-80-2070 G, and will take final action on the request and application as provided in Part I (9VAC5-80-5 et seq.) of this chapter.

D. The board will notify the applicant in writing of its decision on the application, including its reasons, and shall also specify the applicable emission limitations. These emission limitations are applicable during any emission testing conducted in accordance with 9VAC5-80-2080.

~~D. E.~~ The applicant may appeal the decision pursuant to Part VIII (9VAC5-170-190 et seq.) of 9VAC5 Chapter 170.

~~E. F.~~ Within five days after notification to the applicant pursuant to subsection C of this section, the notification and any comments received pursuant to the public comment period and public hearing shall be made available for public inspection at the same location as was the information in 9VAC5-80-2070 F 1.

9VAC5-80-2070. Public participation.

A. No later than 30 days after receiving the initial determination notification required under 9VAC5-80-2060 A, ~~applicants~~ the applicant shall notify the public about the proposed source as required in subsection B of this section. The applicant shall also provide an informational briefing about the proposed source for the public as required in subsection C of this section.

B. The public notice required under subsection A of this section shall be placed by the applicant in at least one newspaper of general circulation in the affected air quality control region. The notice shall be approved by the board and shall include, but not be limited to, the name, location, and type of the source, and the time and place of the informational briefing.

C. The informational briefing shall be held in the locality where the source is or will be located and at least 30 days, but no later than 60 days, following the day of the publication of the public notice in the newspaper. The applicant shall inform the public about the operation and potential air quality impact of the source and answer any questions concerning air quality about the proposed source from those in attendance at the briefing. At a minimum, the applicant shall provide information on and answer questions about (i) specific pollutants and the total quantity of each which the applicant estimates will be emitted and (ii) the control technology proposed to be used at the time of the informational briefing. Representatives from the board will attend and provide information and answer questions on the permit application review process.

D. Upon determination by the board that it will achieve the desired results in an equally effective manner, an applicant for a permit may implement an alternative plan for notifying the public as required in subsection B of this section and for providing the informational briefing as required in subsection C of this section.

E. Prior to the decision of the board, all permit applications will be subject to a public comment period of at least 30 days. In addition, at the end of the public comment period, a public hearing shall be held with notice in accordance with subsection F of this section.

F. ~~For the public comment period and public hearing, the~~ The board will notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment and the public hearing on the information available for public inspection under the provisions of subdivision 1 of this subsection. The notification shall be published at least 30 days prior to the day of the public hearing. Written comments will be accepted by the board for at least 15 days after any hearing, unless the board votes to shorten the period.

1. Information on the permit application (exclusive of confidential information under 9VAC5-170-60), as well as the preliminary review and analysis and preliminary ~~decision~~ determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice shall be sent to all local air pollution control agencies having jurisdiction in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.

3. Notices of public comment periods and public hearings for major stationary sources and major modifications published under this section shall meet the requirements of § 10.1-1307.01 of the Virginia Air Pollution Control Law.

G. Following the initial publication of the notice required under subsection F of this section, the board will receive written requests for direct consideration of the application by the board pursuant to the requirements of 9VAC5-80-25. In order to be considered, the request must be submitted no later than the end of the public comment period. A request for direct consideration of an application by the board shall contain the following information:

1. The name, mailing address, and telephone number of the requester.

2. The names and addresses of all persons for whom the requester is acting as a representative (for the purposes of this requirement, an unincorporated association is a person).

3. The reason why direct consideration by the board is requested.

4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative in the application or preliminary determination, including an explanation of how and to what extent such interest would be directly and adversely affected by the issuance, denial or revision of the permit in question.

5. Where possible, specific references to the terms and conditions of the permit in question, together with suggested revisions and alterations of those terms and conditions that the requester considers are needed to conform the permit to the intent and provisions of the Virginia Air Pollution Control Law.

H. The board will review any request made under subsection G of this section, and will take final action on the request as provided in 9VAC5-80-2060 C.

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~~G. I.~~ In order to facilitate the efficient issuance of permits under Articles 1 (9VAC5-80-50 et seq.) and 3 (9VAC5-80-360 et seq.) of this part, upon request of the applicant the board will process the permit application under this article using public participation procedures meeting the requirements of this section and 9VAC5-80-270 or 9VAC5-80-670, as applicable.

~~H. I.~~ If appropriate, the board may provide a public briefing on its review of the permit application prior to the public comment period but no later than the day before the beginning of the public comment period. If the board provides a public briefing, the requirements of subsection F of this section concerning public notification shall be followed.

9VAC5-80-2230. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requesting permit amendments that do not qualify as minor permit amendments under 9VAC5-80-2220 or as administrative amendments under 9VAC5-80-2210.

2. Significant amendment procedures shall be used for those permit amendments that meet any of the following criteria:

a. Involve significant changes to existing monitoring, reporting, or record keeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include, but are not limited to, an emissions cap assumed to avoid classification as a modification under the new source review program.

B. A request for a significant permit amendment shall include a description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs. The applicant may, at ~~his~~ the applicant's discretion, include a suggested draft permit amendment.

C. The provisions of 9VAC5-80-2070 shall apply to requests made under this section.

D. The board will normally take final action on significant permit amendments within ~~90~~ 180 days after receipt of a complete request ~~except in cases where direct consideration of the request by the board is granted pursuant to 9VAC5-80-25. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application.~~ The board may extend this time period if additional information is ~~required or if a public hearing is conducted under 9VAC5-80-2070~~ needed.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

Part II General Provisions

9VAC5-170-30. Applicability.

A. The provisions of this chapter, unless specified otherwise, shall apply throughout the Commonwealth of Virginia.

B. The provisions of this chapter, unless specified otherwise, shall apply in the administration of all regulations of the board to the extent not covered in a specific regulation of the board. In cases where the provisions of this chapter conflict with another regulation of the board, the provisions of the other regulation shall apply.

C. No provision of this chapter shall limit the power of the board to take appropriate action as necessary to control and abate air pollution in emergency situations.

D. By the adoption of this chapter, the board confers upon the department the administrative, enforcement, and decision-making authority articulated in this chapter except as restricted in ~~9VAC5-170-220~~ Part VII (9VAC5-170-180 et seq.) of this chapter.

Part VII Delegation of Authority

9VAC5-170-180. General provisions.

A. In accordance with the Virginia Air Pollution Control Law and the Administrative Process Act, the board confers upon the director the administrative, enforcement, and decision-making powers as are set forth in this part. The board reserves the right to exercise its authority in any of the following delegated powers should it choose to do so, except as limited by §§ 10.1-1322 and 10.1-1322.01 of the Code of Virginia.

B. The director is delegated the authority to act within the scope of the Virginia Air Pollution Control Law and the regulations of the board and for the board when it is not in session except for the authority to:

1. Control and regulate the internal affairs of the board;

2. Approve proposed regulations for public comment and adopt final regulations;
3. Grant variances to regulations;
4. Approve amendments to a policy or procedure approved by the board except as may be otherwise provided;
5. Appoint people to the State Advisory Board on Air Pollution;
6. Create local air pollution control districts and appoint representatives; and
7. Approve local ordinances except those that ~~concern~~ pertain solely to open burning as provided in 9VAC5-40-5640 D.

~~C. The board may exercise its authority for direct consideration of permit applications in cases where one or more of the following issues is involved in the evaluation of the application: (i) the stationary source generates public concern relating to air quality issues; (ii) the stationary source is precedent setting; or (iii) the stationary source is a major stationary source or major modification expected to impact on a nonattainment area or class I area.~~

~~D. The director shall notify the board chairman of permit applications falling within the categories specified in subsection C of this section and the board chairman shall advise the director of those permits the board wishes to consider directly.~~

Part VIII
Appeal of Board Actions

9VAC5-170-190. General provisions.

A. Except as provided in ~~subsection~~ subsections B and C of this section, this part applies to the appeal of case decisions and other actions or inactions of the board.

B. ~~Provisions~~ The provisions of this part do not apply to the appeal of the promulgation of regulations or variances. Appeals of the promulgation of regulations and variances shall be pursued under Article 4 (~~§9-6-14-15~~ § 2.2-4026 et seq.) of the Administrative Process Act.

C. The provisions of this part do not apply to permit actions subject to Part I (9VAC5-80-5 et seq.) of 9VAC5-80 with respect to any party except the named party.

9VAC5-170-200. Appeal procedures.

A. An owner or other party significantly affected by an action of the board taken without a formal hearing, or by inaction of the board, may request a formal hearing in accordance with ~~§9-6-14-12~~ § 2.2-4020 of the Administrative Process Act, provided a petition requesting a formal hearing is filed with the board. In cases involving actions of the board, the petition shall be filed within 30 days after notice of

the action is mailed or delivered to the owner or party requesting notification of the action.

B. Prior to a formal hearing, an informal fact finding shall be held pursuant to ~~§9-6-14-11~~ § 2.2-4019 of the Administrative Process Act unless waived by the named party and the board.

C. A decision of the board resulting from a formal hearing shall constitute the final decision of the board.

D. Judicial review of a final decision of the board shall be afforded in accordance with § 10.1-1318 of the Virginia Air Pollution Control Law and ~~§9-6-14-16~~ § 2.2-4026 of the Administrative Process Act.

E. Nothing in this section shall prevent disposition of a case by consent.

F. A petition for a formal hearing or a notice or petition for an appeal by itself shall not constitute a stay of decision or action.

G. A party significantly affected by a decision of the director may request that the board exercise its authority for direct consideration of the issue. The request shall be filed within 30 days after the decision is rendered and shall contain reasons for the request.

H. The submittal of the request by itself shall not constitute a stay of decision. A stay of decision shall be sought through appropriate legal channels.

I. The director has final authority to adjudicate contested decisions of subordinates delegated powers by ~~him~~ the director prior to appeal of decisions to the circuit court or consideration by the board.

VA.R. Doc. No. R09-1364; Filed November 3, 2008, 3:12 p.m.

Final Regulation

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

Title of Regulation: **9VAC5-80. Permits for Stationary Sources (amending 9VAC5-80-1100, 9VAC5-80-1110, 9VAC5-80-1320).**

Statutory Authority: § 10.1-1308 of the Code of Virginia; §§ 110, 112, 165, 173, 182 and Title V of the federal Clean Air Act; 40 CFR Parts 51, 61, 63, 70 and 72.

Effective Date: December 31, 2008.

Regulations

Agency Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, TTY (804) 698-4021, or email cmberndt@deq.virginia.gov.

Summary:

The minor new source review (NSR) program (Article 6 of 9VAC5-80) covers stationary sources not covered by the major NSR program, and applies to the construction or reconstruction of new stationary sources or modifications (physical or operational changes) to existing ones. Exemptions are provided for smaller facilities. With some exceptions, the owner must obtain a permit from the agency prior to the construction or modification of the source. The owner of the proposed new or modified source must provide information as needed to enable the agency to conduct a preconstruction review in order to determine compliance with applicable control technology and other standards and to assess the impact of the net emissions from the facility on air quality. The regulation also provides the basis for the agency's final action (approval or disapproval) on the permit depending upon the results of the preconstruction review. The regulation provides a sourcewide perspective to determine applicability based upon the net emissions changes due to or directly resulting from the modification (physical or operational change). Procedures for making changes to permits are included. There are provisions that allow the use of a general permit. The regulation also allows consideration of additional factors for making Best Available Control Technology (BACT) determinations for sources subject to minor new source review.

Currently, applicability for modifications is based on the net emissions increase in actual emissions based on all the sourcewide emissions changes due to or directly resultant from the physical or operational change. The provision related to the applicability test for modifications have been changed from the actual-to-potential emissions test to an uncontrolled-to-uncontrolled emission rate test. This involves (i) deleting the definition of "actual emissions," which contains the actual-to-potential test, and adding a new definition for "uncontrolled emission rate," and (ii) replacement of the text, "actual emissions" with the text, "the uncontrolled emission rate" throughout the regulation.

The provisions related to alternative fuels and air emissions have been updated to be consistent with § 10.1-1322.4 and provide an exception from the requirement to submit the exemption demonstration for certain fuels. These provisions have also been restructured somewhat to ensure no conflict with federal law or regulation.

9VAC5-80-1100. Applicability.

A. Except as provided in subsection C of this section, the provisions of this article apply to the construction, reconstruction, relocation or modification of any stationary source.

B. The provisions of this article apply throughout the Commonwealth of Virginia.

C. The provisions of this article do not apply to any stationary source, emissions unit or facility that is exempt under the provisions of 9VAC5-80-1320. Exemption from the requirement to obtain a permit under this article shall not relieve any owner of the responsibility to comply with any other applicable provisions of regulations of the board or any other applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction. Any stationary source, emissions unit or facility which is exempt from the provisions of this article based on the criteria in 9VAC5-80-1320 but which exceeds the applicability thresholds for any applicable emission standard in 9VAC5 Chapter 40 (9VAC5-40) if it were an existing source or any applicable standard of performance in 9VAC5 Chapter 50 (9VAC5-50) shall be subject to the more restrictive of the provisions of either the emission standard in 9VAC5 Chapter 40 (9VAC5-40) or the standard of performance in 9VAC5 Chapter 50 (9VAC5-50).

D. The fugitive emissions of a stationary source, to the extent quantifiable, shall be included in determining whether it is subject to this article. The provisions of this article do not apply to a stationary source or modification that would be subject to this article only if fugitive emissions, to the extent quantifiable, are considered in calculating the ~~actual emissions~~ uncontrolled emissions rate of the source or net emissions increase.

E. An affected facility subject to Article 5 (9VAC5-50-400 et seq.) of Part II of 9VAC5 Chapter 50 shall not be exempt from the provisions of this article, except where:

1. The affected facility would be subject only to recordkeeping or reporting requirements or both under Article 5 (9VAC5-50-400 et seq.) of 9VAC5 Chapter 50; or
2. The affected facility is constructed, reconstructed or modified at a stationary source which has a current permit for similar affected facilities that requires compliance with emission standards and other requirements that are not less stringent than the provisions of Article 5 (9VAC5-50-400 et seq.) of 9VAC5 Chapter 50.

F. Regardless of the exemptions provided in this article, no owner or other person shall circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.

G. No provision of this article shall be construed as exempting any stationary source or emissions unit from the provisions of the major new source review program. Accordingly, no provision of the major new source review program regulations shall be construed as exempting any stationary source or emissions unit from this article.

H. Unless specified otherwise, the provisions of this article are applicable to various sources as follows:

1. Provisions referring to "sources," "new or modified sources, or both" or "stationary sources" are applicable to the construction, reconstruction or modification of all stationary sources (including major stationary sources and major modifications) and the emissions from them to the extent that such sources and their emissions are not subject to the provisions of the major new source review program.
2. Provisions referring to "major stationary sources" are applicable to the construction or reconstruction of all major stationary sources subject to this article. Provisions referring to "major modifications" are applicable to major modifications of stationary sources subject to this article.
3. In cases where the provisions of the major new source review program conflict with those of this article, the provisions of the major new source review program shall prevail.
4. Provisions referring to "state and federally enforceable" or "federally and state enforceable" or similar wording shall mean "state-only enforceable" for terms and conditions of a permit designated state-only enforceable under 9VAC5- 80-1120 F.

9VAC5-80-1110. Definitions.

A. For the purpose of applying this article in the context of the Regulations for the Control and Abatement of Air Pollution and related uses, the words or terms shall have the meanings given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meanings given them in 9VAC5 Chapter 10 (9VAC5-10), unless otherwise required by context.

C. Terms defined.

~~"Actual emissions" means the actual rate of emissions (expressed in tons per year) of a pollutant from a stationary source or portion thereof, as determined in accordance with the provisions of this definition.~~

~~1. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two year period that precedes the particular date and that is representative of normal source operation. The board will allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual~~

~~operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.~~

~~2. The board may presume that source specific allowable emissions for the emissions unit are equivalent to the actual emissions of the unit.~~

~~3. For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.~~

"Allowable emissions" means the emission rate of a stationary source calculated by using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following:

1. Applicable emission standards;
2. The emission limitation specified as a state and federally enforceable permit condition, including those with a future compliance date; and
3. Any other applicable emission limitation, including those with a future compliance date.

"Applicable federal requirement" means all of, but not limited to, the following as they apply to emissions units in a source subject to this article (including requirements that have been promulgated or approved by the administrator through rulemaking at the time of permit issuance but have future-effective compliance dates):

1. Any standard or other requirement provided for in an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act, including any source-specific provisions such as consent agreements or orders.
2. Any limit or condition in any construction permit issued under the new source review program or in any operating permit issued pursuant to the state operating permit program.
3. Any emission standard, alternative emission standard, alternative emission limitation, equivalent emission limitation or other requirement established pursuant to § 112 or § 129 of the federal Clean Air Act as amended in 1990.
4. Any new source performance standard or other requirement established pursuant to § 111 of the federal Clean Air Act, and any emission standard or other requirement established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.
5. Any limitations and conditions or other requirement in a Virginia regulation or program that has been approved by EPA under Subpart E of 40 CFR Part 63 for the purposes

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of implementing and enforcing § 112 of the federal Clean Air Act.

6. Any requirement concerning accident prevention under § 112(r)(7) of the federal Clean Air Act.

7. Any compliance monitoring requirements established pursuant to either § 504(b) or § 114(a)(3) of the federal Clean Air Act.

8. Any standard or other requirement for consumer and commercial products under § 183(e) of the federal Clean Air Act.

9. Any standard or other requirement for tank vessels under § 183(f) of the federal Clean Air Act.

10. Any standard or other requirement in 40 CFR Part 55 to control air pollution from outer continental shelf sources.

11. Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the federal Clean Air Act, unless the administrator has determined that such requirements need not be contained in a permit issued under this article.

12. With regard to temporary sources subject to 9VAC5-80-130, (i) any ambient air quality standard, except applicable state requirements and (ii) requirements regarding increments or visibility as provided in Article 8 (9VAC5-80-1605 et seq.) of this part.

"Begin actual construction" means initiation of permanent physical on-site construction of an emissions unit. This includes, but is not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change. With respect to the initial location of a portable emissions unit, this term refers to the delivery of any portion of the portable emissions unit to the site.

"Commence," as applied to the construction, reconstruction or modification of an emissions unit, means that the owner has all necessary preconstruction approvals or permits and has either:

1. Begun, or caused to begin, a continuous program of actual on-site construction, reconstruction or modification of the unit, to be completed within a reasonable time; or
2. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner, to undertake a program of actual construction, reconstruction or modification of the unit, to be completed within a reasonable time.

"Complete application" means that the application contains all the information necessary for processing the application and that the provisions of § 10.1-1321.1 of the Virginia Air Pollution Control Law have been met. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.

"Construction" means fabrication, erection or installation of an emissions unit.

"Emergency" means, in the context of 9VAC5-80-1320 B 2, a situation where immediate action on the part of a source is needed and where the timing of the action makes it impractical to meet the requirements of this article, such as sudden loss of power, fires, earthquakes, floods or similar occurrences.

"Emissions cap" means any limitation on the rate of emissions of any air pollutant from one or more emissions units established and identified as an emissions cap in any permit issued pursuant to the new source review program or operating permit program.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent;
2. Contain a legal obligation for the owner to adhere to the terms and conditions;
3. Do not allow a relaxation of a requirement of the implementation plan;
4. Are technically accurate and quantifiable;
5. Include averaging times or other provisions that allow at least monthly (or a shorter period if necessary to be consistent with the implementation plan) checks on compliance. This may include, but not be limited to, the following: compliance with annual limits in a rolling basis, monthly or shorter limits, and other provisions consistent with 9VAC5-80-1180 and other regulations of the board; and
6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Federal hazardous air pollutant new source review program" means a program for the preconstruction review and approval of new sources or expansions to existing ones in accordance with regulations specified below and promulgated to implement the requirements of § 112 (relating to hazardous air pollutants) of the federal Clean Air Act.

1. The provisions of 40 CFR 61.05, 40 CFR 61.06, 40 CFR 61.07, 40 CFR 61.08 and 40 CFR 61.15 for issuing approvals of the construction of any new source or modification of any existing source subject to the provisions of 40 CFR Part 61. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 1 (9VAC5-60-60 et seq.) of 9VAC5 Chapter 60.

2. The provisions of 40 CFR 63.5 for issuing approvals to construct a new source or reconstruct a source subject to the provisions of 40 CFR Part 63, except for Subparts B, D and E. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 2 (9VAC5-60-90 et seq.) of 9VAC5 Chapter 60.

3. The provisions of 40 CFR 63.50 through 40 CFR 63.56 for issuing Notices of MACT approval prior to the construction of a new emissions unit. These provisions of the federal hazardous air pollutant new source review program shall be implemented through this article and Article 3 (9VAC5-60-120 et seq.) of 9VAC5 Chapter 60.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator and citizens under the federal Clean Air Act or that are enforceable under other statutes administered by the administrator. Federally enforceable limitations and conditions include, but are not limited to, the following:

1. Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to § 112 of the federal Clean Air Act, as amended in 1990.

2. New source performance standards established pursuant to § 111 of the federal Clean Air Act, and emission standards established pursuant to § 112 of the federal Clean Air Act before it was amended in 1990.

3. All terms and conditions in a federal operating permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable.

4. Limitations and conditions that are part of an implementation plan established pursuant to § 110, § 111(d) or § 129 of the federal Clean Air Act.

5. Limitations and conditions that are part of a federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR Part 51.

6. Limitations and conditions that are part of an operating permit issued pursuant to a program approved by the EPA into an implementation plan as meeting the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for EPA and public

comment prior to issuance of the final permit and practicable enforceability.

7. Limitations and conditions in a Virginia regulation or program that has been approved by the EPA under Subpart E of 40 CFR Part 63 for the purposes of implementing and enforcing § 112 of the federal Clean Air Act.

8. Individual consent agreements that the EPA has legal authority to create.

"Fixed capital cost" means the capital needed to provide all the depreciable components.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"General permit" means a permit issued under this article that meets the requirements of 9VAC5-80-1250.

"Hazardous air pollutant" means any air pollutant listed in § 112(b) of the federal Clean Air Act, as amended by 40 CFR 63.60.

"Major modification" means any modification defined as such in 9VAC5-80-1615 C or 9VAC5-80-2010 C, as may apply.

"Major new source review (major NSR) program" means a preconstruction review and permit program (i) for new major stationary sources or major modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 112, 165 and 173 of the federal Clean Air Act and associated regulations; and (iii) codified in Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part.

"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any regulated air pollutant.

"Minor new source review (minor NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation) that do not qualify for review under the major new source review program; (ii) established to implement the requirements of §§ 110(a)(2)(C) and 112 of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9VAC5-80-1100 et seq.) of this part.

"Modification" means any physical change in, change in the method of operation of, or addition to, a stationary source that would result in a net emissions increase of any regulated air pollutant emitted into the atmosphere by the source or which results in the emission of any regulated air pollutant into the atmosphere not previously emitted, except that the following shall not, by themselves (unless previously limited by permit

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conditions), be considered modifications under this definition:

1. Maintenance, repair and replacement which the board determines to be routine for a source type and which does not fall within the definition of "reconstruction";
2. An increase in the production rate of a unit, if that increase does not exceed the operating design capacity of that unit;
3. An increase in the hours of operation;
4. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was designed to accommodate that alternative use. A source shall be considered to be designed to accommodate an alternative fuel or raw material if provisions for that use were included in the final construction specifications;
- ~~5. Use of an alternative fuel or raw material if, prior to the date any provision of the regulations of the board becomes applicable to the source type, the source was not designed to accommodate that alternative use and the owner demonstrates to the board that as a result of trial burns at the source or other sources or of other sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased;~~
- ~~6. 5. The addition, replacement or use of any system or device whose primary function is the reduction of air pollutants, except when a system or device that is necessary to comply with applicable air pollution control laws and regulations is replaced by a system or device which the board considers to be less efficient in the control of air pollution emissions; or~~
- ~~7. 6. The removal of any system or device whose primary function is the reduction of air pollutants if the system or device is not necessary for the source to comply with any applicable air pollution control laws or regulations.~~

"Modified source" means any stationary source (or portion of it), the modification of which commenced on or after March 17, 1972.

"Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations, and those air quality control laws and regulations which are part of the implementation plan.

"Net emissions increase" means the amount by which the sum of the following exceeds zero: (i) any increase in ~~actual emissions~~ the uncontrolled emission rate from a particular physical change or change in the method of operation at a stationary source and (ii) any other increases and decreases in ~~actual emissions~~ the uncontrolled emission rate at the source that are concurrent with the particular change and are

otherwise creditable. An increase or decrease in ~~actual emissions~~ the uncontrolled emission rate is concurrent with the increase from the particular change only if it is directly resultant from the particular change. An increase or decrease in ~~actual emissions~~ the uncontrolled emission rate is not creditable if the board has relied on it in issuing a permit for the source under the new source review program and that permit is in effect when the increase in ~~actual emissions~~ the uncontrolled emission rate from the particular change occurs. Creditable increases and decreases shall be federally enforceable or enforceable as a practical matter.

"New source" means any stationary source (or portion of it), the construction or relocation of which commenced on or after March 17, 1972; and any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation); (ii) established to implement the requirements of §§ 110(a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations; and (iii) codified in Article 6 (9VAC5-80-1100 et seq.), Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of this part.

"Nonroad engine" means any internal combustion engine:

1. In or on a piece of equipment that is self-propelled or serves a dual purpose by both propelling itself and performing another function (such as garden tractors, off-highway mobile cranes and bulldozers);
2. In or on a piece of equipment that is intended to be propelled while performing its function (such as lawnmowers and string trimmers); or
3. That, by itself or in or on a piece of equipment, is portable or transportable, meaning designed to be capable of being carried or moved from one location to another. Indications of transportability include, but are not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

An internal combustion engine is not a nonroad engine if:

1. The engine is used to propel a motor vehicle or a vehicle used solely for competition, or is subject to standards promulgated under § 202 of the federal Clean Air Act; or
2. The engine otherwise included in subdivision 3 above remains or will remain at a location for more than 12 consecutive months or a shorter period of time for an engine located at a seasonal source.

For purposes of this definition, a location is any single site at a building, structure, facility or installation. Any engine (or engines) that replaces an engine at a location and that is intended to perform the same or similar function as the engine replaced will be included in calculating the consecutive time period. An engine located at a seasonal source is an engine that remains at a seasonal source during the full annual operating period of the seasonal source. A seasonal source is a stationary source that remains in a single location on a permanent basis (i.e., at least two years) and that operates at the single location approximately three months (or more) each year. This paragraph does not apply to an engine after the engine is removed from the location.

"Portable," in reference to emissions units, means an emissions unit that is designed to have the capability of being moved from one location to another for the purpose of operating at multiple locations and storage when idle. Indications of portability include, but are not limited to, wheels, skids, carrying handles, dollies, trailers, or platforms.

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Public comment period" means a time during which the public shall have the opportunity to comment on the new or modified source permit application information (exclusive of confidential information), the preliminary review and analysis of the effect of the source upon the ambient air quality, and the preliminary decision of the board regarding the permit application.

"Reactivation" means beginning operation of an emissions unit that has been shut down.

"Reconstruction" means the replacement of an emissions unit or its components to such an extent that:

1. The fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new unit;
2. The replacement significantly extends the life of the emissions unit; and
3. It is technologically and economically feasible to meet the applicable emission standards prescribed under regulations of the board.

Any determination by the board as to whether a proposed replacement constitutes reconstruction shall be based on:

1. The fixed capital cost of the replacements in comparison to the fixed capital cost of the construction of a comparable entirely new unit;
2. The estimated life of the unit after the replacements compared to the life of a comparable entirely new unit;
3. The extent to which the components being replaced cause or contribute to the emissions from the unit; and
4. Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound;
2. Any pollutant for which an ambient air quality standard has been promulgated;
3. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act;
4. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under 40 CFR Part 63; or
5. Any pollutant subject to a regulation adopted by the board.

"Relocation" means a change in physical location of a stationary source or an emissions unit from one stationary source to another stationary source.

"Secondary emissions" means emissions which occur or would occur as a result of the construction, reconstruction, modification or operation of a stationary source, but do not come from the stationary source itself. For the purpose of this article, secondary emissions must be specific, well-defined, and quantifiable; and must affect the same general areas as the stationary source which causes the secondary emissions. Secondary emissions include emissions from any off site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"State enforceable" means all limitations and conditions which are enforceable as a practical matter, including any regulation of the board, those requirements developed pursuant to 9VAC5-170-160, requirements within any applicable order or variance, and any permit requirements established pursuant to this chapter.

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources; (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including

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adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability; and (iii) codified in Article 5 (9VAC5-80-800 et seq.) of this part.

"Stationary source" means any building, structure, facility or installation which emits or may emit any regulated air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any watercraft or any nonroad engine. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual," as amended by the supplement (see 9VAC5-20-21).

"Synthetic minor" means a stationary source whose potential to emit is constrained by state enforceable and federally enforceable limits, so as to place that stationary source below the threshold at which it would be subject to permit or other requirements governing major stationary sources in regulations of the board or in the federal Clean Air Act.

"Uncontrolled emission rate" means the emission rate from an emissions unit when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment that is not vital to its operation, except that its use enables the owner to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the emissions unit, unless the emissions unit or stationary source is subject to state and federally enforceable permit conditions that limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted, stored, or processed may be used in determining the uncontrolled emission rate of an emissions unit or stationary source. The uncontrolled emission rate of a stationary source is the sum of the uncontrolled emission rates of the individual emissions units. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.

9VAC5-80-1320. Permit exemption levels.

A. The general requirements for permit exemption levels are as follows:

1. The provisions of this article do not apply to the following stationary sources or emissions units:
 - a. The construction, reconstruction, relocation or modification of any stationary source or emissions unit that is exempt under the provisions of subsections B through F of this section.

- b. The reconstruction of any stationary source or emissions unit if the potential to emit resulting from the reconstruction will not increase.

- c. The relocation of a portable emissions unit provided that:

- (1) The new emissions from the portable emissions unit are secondary emissions;

- (2) The portable emissions unit has previously been permitted or is subject to a general permit;

- (3) The unit would not undergo modification or reconstruction;

- (4) The unit is suitable to the area in which it is to be located; and

- (5) Reasonable notice is given to the board prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the board not less than 15 days in advance of the proposed relocation unless a different time duration is previously approved by the board.

- d. The reactivation of a stationary source unless a determination concerning shutdown has been made pursuant to the provisions of 9VAC5-20-220.

- e. The use by any source of an alternative fuel or raw material, if the following conditions are met:

- (1) The owner demonstrates to the board that, as a result of trial burns at ~~their~~ the owner's facility or other facilities or other sufficient data, the emissions resulting from the use of the alternative fuel or raw material supply are decreased. No demonstration will be required for the use of processed animal fat, processed fish oil, processed vegetable oil, distillate oil, or any mixture thereof in place of the same quantity of residual oil to fire industrial boilers.

- (2) The use of an alternative fuel or raw material would not be subject to review under this article as a modification.

2. In determining whether a facility source is exempt from the provisions of this article, the provisions of subsections B through D of this section are independent from the provisions of subsections E and F of this section. A source must be determined to be exempt both under the provisions of subsections B through D taken as a group and under the provisions of subsection E or F to be exempt from this article.

3. In determining whether a facility is exempt from the provisions of this article under the provisions of subsection B of this section, the definitions in 9VAC5 Chapter 40 (9VAC5-40-10 et seq.) that would cover the facility if it

were an existing source shall be used unless deemed inappropriate by the board.

4. Any owner claiming that a facility is exempt from this article under the provisions of this section shall keep records as may be necessary to demonstrate to the satisfaction of the board that the facility was exempt at the time a permit would have otherwise been required under this article.

B. Facilities as specified below shall be exempt from the provisions of this article as they pertain to construction, modification, reconstruction or relocation.

1. Fuel burning equipment units (external combustion units, not engines and turbines) as follows:

- a. Using solid fuel with a maximum heat input of less than 1,000,000 Btu per hour.
- b. Using liquid fuel with a maximum heat input of less than 10,000,000 Btu per hour.
- c. Using liquid and gaseous fuel with a maximum heat input of less than 10,000,000 Btu per hour.
- d. Using gaseous fuel with a maximum heat input of less than 50,000,000 Btu per hour.

2. Engines and turbines used for emergency purposes only and which do not exceed 500 hours of operation per year at a single stationary source as follows:

- a. Gasoline engines with an aggregate rated brake (output) horsepower of less than 910 hp and gasoline engines powering electrical generators having an aggregate rated electrical power output of less than 611 kilowatts.
- b. Diesel engines with an aggregate rated brake (output) horsepower of less than 1,675 hp and diesel engines powering electrical generators having an aggregate rated electrical power output of less than 1125 kilowatts.
- c. Combustion gas turbines with an aggregate of less than 10,000,000 Btu per hour heat input (low heating value).

3. Engines that power mobile sources during periods of maintenance, repair or testing.

4. Volatile organic compound storage and transfer operations involving petroleum liquids and other volatile organic compounds with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions; and any operation specified below:

a. Volatile organic compound transfer operations involving:

- (1) Any tank of 2,000 gallons or less storage capacity; or

(2) Any operation outside the volatile organic compound emissions control areas designated in 9VAC5-20-206.

b. Volatile organic compound storage operations involving any tank of 40,000 gallons or less storage capacity.

5. Vehicle customizing coating operations, if production is less than 20 vehicles per day.

6. Vehicle refinishing operations.

7. Coating operations for the exterior of fully assembled aircraft or marine vessels.

8. Petroleum liquid storage and transfer operations involving petroleum liquids with a vapor pressure less than 1.5 pounds per square inch absolute under actual storage conditions or, in the case of loading or processing, under actual loading or processing conditions (kerosene and fuel oil used for household heating have vapor pressures of less than 1.5 pounds per square inch absolute under actual storage conditions; therefore, kerosene and fuel oil are not subject to the provisions of this article when used or stored at ambient temperatures); and any operation or facility specified below:

a. Gasoline bulk loading operations at bulk terminals located outside volatile organic compound emissions control areas designated in 9VAC5-20-206.

b. Gasoline dispensing facilities.

c. Gasoline bulk loading operations at bulk plants:

(1) With an expected daily throughput of less than 4,000 gallons; or

(2) Located outside volatile organic compound emissions control areas designated in 9VAC5-20-206.

d. Account/tank trucks; however, permits issued for gasoline storage/transfer facilities should include a provision that all associated account/tank trucks meet the same requirements as those trucks serving existing facilities.

e. Petroleum liquid storage operations involving:

(1) Any tank of 40,000 gallons or less storage capacity;

(2) Any tank of less than 420,000 gallons storage capacity for crude oil or condensate stored, processed or treated at a drilling and production facility prior to custody transfer; or

(3) Any tank storing waxy, heavy pour crude oil.

9. Petroleum dry cleaning plants with a total manufacturers' rated solvent dryer capacity less than 84 pounds as determined by the applicable new source performance standard in 9VAC5-50-410.

Regulations

10. Any addition of, relocation of or change to a woodworking machine within a wood product manufacturing plant provided the system air movement capacity, expressed as the cubic feet per minute of air, is not increased and maximum control efficiency of the control system is not decreased.

11. Wood sawmills and planing mills primarily engaged in sawing rough lumber and timber from logs and bolts, or resawing cants and flitches into lumber, including box lumber and softwood cut stock; planing mills combined with sawmills; and separately operated planing mills that are engaged primarily in producing surfaced lumber and standard workings or patterns of lumber. This also includes facilities primarily engaged in sawing lath and railroad ties and in producing tobacco hogshead stock, wood chips, and snow fence lath. This exemption does not include any facility that engages in the kiln drying of lumber.

12. Exhaust flares at natural gas and coalbed methane extraction wells.

C. The exemption of new and relocated sources shall be determined as specified below:

1. Stationary sources with a potential to emit at rates less than all of the emission rates specified below shall be exempt from the provisions of this article pertaining to construction or relocation.

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	40 tpy
Sulfur Dioxide	40 tpy
Particulate Matter	25 tpy
Particulate Matter (PM ₁₀)	15 tpy
Volatile organic compounds	25 tpy
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	6 tpy
Hydrogen Sulfide (H ₂ S)	9 tpy
Total Reduced Sulfur (including H ₂ S)	9 tpy
Reduced Sulfur Compounds (including H ₂ S)	9 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and	3.5 x 10 ⁻⁶ tpy

dibenzofurans)	
Municipal waste combustor metals (measured as particulate matter)	13 tpy
Municipal waste combustor acid gases (measured as the sum of SO ₂ and HCl)	35 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	22 tpy

2. Facilities exempted by subsection B of this section shall not be included in the determination of potential to emit of a stationary source for purposes of exempting sources under this subsection.

3. If the particulate matter (PM₁₀) emissions for a stationary source can be determined in a manner acceptable to the board and the stationary source is deemed exempt using the emission rate for particulate matter (PM₁₀), the stationary source shall be considered to be exempt for particulate matter. If the emissions of particulate matter (PM₁₀) cannot be determined in a manner acceptable to the board, the emission rate for particulate matter shall be used to determine the exemption status.

D. The exemption of modified and reconstructed sources shall be determined as specified below:

1. Stationary sources with net emissions increases less than all of the emission rates specified below shall be exempt from the provisions of this article pertaining to modification or reconstruction.

Pollutant	Emissions Rate
Carbon Monoxide	100 tons per year (tpy)
Nitrogen Oxides	10 tpy
Sulfur Dioxide	10 tpy
Particulate Matter	15 tpy
Particulate Matter (PM ₁₀)	10 tpy
Volatile organic compounds	10 tpy
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric Acid Mist	6 tpy
Hydrogen Sulfide (H ₂ S)	9 tpy
Total Reduced Sulfur (including H ₂ S)	9 tpy

Reduced Sulfur Compounds (including H ₂ S)	9 tpy
Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	3.5 x 10 ⁻⁶ tpy
Municipal waste combustor metals (measured as particulate matter)	13 tpy
Municipal waste combustor acid gases (measured as the sum of SO ₂ and HCl)	35 tpy
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	22 tpy

2. Facilities exempted by subsection B of this section shall not be included in the determination of net emissions increase of a stationary source for purposes of exempting sources under this subsection. However, any other increases and decreases in ~~actual emissions~~ the uncontrolled emission rate at the source that are concurrent with a particular change shall be included in the determination of net emissions increase of a stationary source for purposes of exempting sources under this subsection, and if the change is not exempt, the other increases shall be subject to 9VAC5-50-260 C.

3. If the particulate matter (PM₁₀) emissions for a stationary source can be determined in a manner acceptable to the board and the stationary source is deemed exempt using the emission rate for particulate matter (PM₁₀), the stationary source shall be considered to be exempt for particulate matter. If the emissions of particulate matter (PM₁₀) cannot be determined in a manner acceptable to the board, the emission rate for particulate matter shall be used to determine the exemption status.

E. Exemptions for stationary sources of toxic pollutants not subject to the federal hazardous air pollutant new source review program shall be as follows:

1. Stationary sources exempt from the requirements of Article 5 (9VAC5-60-300 et seq.) of 9VAC5 Chapter 60 as provided in 9VAC5-60-300 C 1, C 2, D or E shall be exempt from the provisions of this article.

2. Facilities as specified below shall not be exempt, regardless of size or emission rate, from the provisions of this article.

a. Incinerators, unless the incinerator is used exclusively as air pollution control equipment.

b. Ethylene oxide sterilizers.

c. Boilers, incinerators, or industrial furnaces as defined in 40 CFR 260.10 and subject to 9VAC20 Chapter 60 (9VAC20-60)

F. Any source category or portion of a source category subject to the federal hazardous air pollutant new source review program shall be exempt from the provisions of this article if specifically exempted from that program by 40 CFR Part 61 or 63.

VA.R. Doc. No. R09-1638; Filed November 3, 2008, 3:12 p.m.

Final Regulation

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

Title of Regulation: 9VAC5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9VAC5-91-20).

Statutory Authority: § 46.2-1180 of the Code of Virginia; § 182 of the federal Clean Air Act; 40 CFR Part 51, Subpart S.

Effective Date: December 31, 2008.

Agency Contact: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email memajor@deq.virginia.gov.

Summary:

The amendment changes the definition of "affected motor vehicle" to state that the term does not apply to hybrid vehicles. Hybrid vehicles meeting specific EPA criteria are exempt from the program. Section 46.2-1178 B 1 of the Code of Virginia states that "The emissions inspection program provided for in this article shall not apply to any qualified hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless remote sensing devices indicate the hybrid vehicle may not meet current emissions standards. The board shall adopt such regulations as may be required to implement this exemption."

In addition, the term "qualified hybrid motor vehicle" has been added to the regulation as defined by law.

Regulations

9VAC5-91-20. Terms defined.

"Aborted test" means an emissions inspection procedure that has been initiated by the inspector but stopped and not completed due to inspector error or a vehicular problem that prevents completion of the test. Aborted tests are not tests that cannot be completed due to a "failed/invalid" result caused by an exhaust dilution problem or an engine condition that prevents the inspection from being completed.

"Access code" means the security phrase or number which allows authorized station personnel, the department, and analyzer service technicians to perform specific assigned functions using the certified analyzer system, as determined by the department. Depending on the assigned function, the access code is a personal password, a state password or a service password. Access code is not an identification number, but is used as an authenticator along with the identification number where such number is needed to perform specific tasks.

"Actual gross weight" means the gross vehicle weight rating (GVWR).

"Administrator" means the administrator of the U.S. Environmental Protection Agency (EPA) or an authorized representative.

"Affected motor vehicle" means any motor vehicle or replica vehicle which:

1. Was manufactured or designated by the manufacturer as a model year less than 25 calendar years prior to January 1 of the present calendar year according to the formula, the current calendar year minus 24, except those identified by remote sensing as specified in subdivision 5 of this definition;
2. Is designed for the transportation of persons or property;
3. Is powered by an internal combustion engine;
4. For the Northern Virginia Emissions Inspection Program, has an actual gross weight of 10,000 pounds or less; and
5. For vehicles subject to the remote sensing requirements of 9VAC5-91-180, was designated by the manufacturer as model year 1968 or newer.

The term "affected motor vehicle" does not mean any:

1. Vehicle powered by a clean special fuel as defined in ~~§ 58.1-2101~~ § 46.2-749.3 of the Code of Virginia, provided the federal Clean Air Act permits such exemptions for vehicles powered by clean special fuels;
2. Motorcycle;
3. Vehicle that at the time of its manufacture was not designed to meet emissions standards set or approved by the federal government;

4. Any antique motor vehicle as defined in § 46.2-100 of the Code of Virginia and licensed pursuant to § 46.2-730 of the Code of Virginia;

5. Firefighting equipment, rescue vehicle, or ambulance;

6. Vehicle for which no testing standards have been adopted by the board; ~~or~~

7. Tactical military vehicle; or

8. Qualified hybrid motor vehicle if such vehicle obtains a rating from the U.S. Environmental Protection Agency of at least 50 miles per gallon during city fuel economy tests unless identified by the remote sensing requirements of 9VAC5-91-180 as violating the emissions standards for on-road testing.

"Air intake systems" means those systems that allow for the induction of ambient air (to include preheated air) into the engine combustion chamber for the purpose of mixing with a fuel for combustion.

"Air pollution" means the presence in the outdoor atmosphere of one or more substances which are or may be harmful or injurious to human health, welfare or safety; to animal or plant life; or to property; or which unreasonably interfere with the enjoyment by the people of life or property.

"Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 of the Code of Virginia.

"Air system" means a system for providing supplementary air to promote further oxidation of hydrocarbons and carbon monoxide gases and to assist catalytic reaction.

"Alternative fuel" means an internal combustion engine fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% volume of gasoline.

"Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference method, but that has been demonstrated to the satisfaction of the board, in specific cases, to produce results adequate for its determination of compliance.

"Acceleration Simulation Mode (ASM) test" means a dynamometer-based emissions test performed in one or more, discreet, simulated road speed and engine load modes, and equipment which can be used to perform any such test.

"Authorized personnel" means department personnel, an individual designated by analyzer manufacturer, station owner, licensed emissions inspector, station manager or other person as designated by the station manager.

"Basic engine systems" means those parts or assemblies which provide for the efficient conversion of a compressed air and fuel charge into useful power to include but not limited to valve train mechanisms, cylinder head to block integrity, piston-ring-cylinder sealing integrity and post-combustion emissions control device integrity.

"Bi-fuel" means any motor vehicle capable of operating on one of two different fuels, usually gasoline and an alternative fuel, but not a mixture of the fuels. That is, only one fuel at a time.

"Board" means the State Air Pollution Control Board or its designated representative.

"Calibration" means establishing or verifying the response curve of a measurement device using several different measurements having precisely known quantities.

"Calibration gases" means gases of precisely known concentrations that are used as references for establishing or verifying the response curve of a measurement device.

"Canister" means a mechanical device capable of adsorbing and retaining hydrocarbon vapors.

"Catalytic converter" means a post combustion device that oxidizes hydrocarbons, carbon monoxide gases, and may also reduce oxides of nitrogen.

"Certificate of emissions inspection" means a document, device, or symbol, whether recorded in written or electronic form, as prescribed by the director and issued pursuant to this chapter, which indicates that (i) an affected motor vehicle has satisfactorily complied with the emissions standards and passed the emissions inspection provided for in this chapter; (ii) the requirement of compliance with the emissions standards has been temporarily waived; or (iii) the affected motor vehicle has failed the emissions inspection.

"Certified emissions repair facility" means a facility, or portion of a facility, that has obtained a certification in accordance with Part VII (9VAC5-91-500 et seq.) to perform emissions related repairs on motor vehicles.

"Certified emissions repair technician" means a person who has obtained a certification in accordance with Part VIII (9VAC5-91-550 et seq.) to perform emissions related repairs on motor vehicles.

"Certified enhanced analyzer system" or "analyzer system" means the complete system that samples and reads concentrations of hydrocarbon, carbon dioxide, nitric oxides and carbon monoxide gases and that is approved by the department for use in the Enhanced Emissions Inspection Program in accordance with Part X (9VAC5-91-640 et seq.). The system includes the exhaust gas handling system, the exhaust gas analyzer, evaporative system pressure test equipment, associated automation hardware and software, data media, the analyzer system cabinet, the dynamometer and appurtenant devices, vehicle identification equipment, and associated cooling and exhaust fans and gas cylinders.

"Certified thermometer" means a laboratory grade ambient temperature-measuring device with a range of at least 20°F through 120°F, and an attested accuracy of at least 1°F with increments of 1°, with protective shielding.

"Chargeable inspection" means a completed inspection on an affected motor vehicle, for which the station owner is entitled to collect an inspection fee. No fee shall be paid for (i) inspections for which a certificate of emissions inspection has not been issued, (ii) inspections that are conducted by the department for referee purposes, (iii) inspections which were ordered due to on-road test failures but which result in an emissions inspection "pass" at an inspection station, or (iv) the first reinspection done at the same station that performed the initial inspection within 14 days. An inspection ordered by the department due to an on-road test failure that results in a confirmation test failure at an emissions inspection station is a chargeable inspection.

"Confirmation test" means an emissions inspection required due to a determination that the vehicle exceeds the exhaust emissions standards prescribed in Table III-B in 9VAC5-91-180 for on-road testing through remote sensing. The confirmation emissions inspection procedure may include an exhaust test (ASM or TSI), OBD system test or both.

"Consent order" means a mutual agreement between the department and any owner, operator, emissions inspector, or emissions repair technician that such owner or other person will perform specific actions for the purpose of diminishing or abating the causes of air pollution or for the purpose of coming into compliance with this chapter. A consent order may include agreed upon civil charges. Such orders may be issued without a formal hearing.

"Curb idle" means vehicle operation whereby the transmission is disengaged and the engine is operated with the throttle in the closed or idle stop position with the resultant engine speed between 400 and 1,250 revolutions per minute (rpm), or at another idle speed if so specified by the manufacturer.

"Data handling system" means all the computer hardware, software and peripheral equipment used to conduct emissions inspections and manage the enhanced emissions inspection program.

"Data medium" or "data media" means the medium contained in the certified analyzer system and used to electronically record test data.

"Day" means a 24-hour period beginning at midnight.

"Dedicated alternative fuel vehicle" means a vehicle that was configured by the vehicle manufacturer to operate only on one specific fuel other than (i) gasoline, (ii) diesel, or (iii) fuel mixtures containing more than 15% by volume of gasoline.

"Dedicated-fuel vehicle" means a vehicle that was designed and manufactured to operate and operates on one specific fuel.

Regulations

"Department" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"Director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Dual fuel" means a vehicle that operates on a combination of fuels, usually gasoline or diesel and an alternative fuel, at the same time. That is, the mixed fuels are introduced into the combustion chamber of the engine.

"Emissions control equipment" means any part, assembly or equipment originally installed by the manufacturer in or on a motor vehicle for the sole or primary purpose of reducing emissions.

"Emissions control systems" means any system consisting of parts, assemblies or equipment originally installed by the manufacturer in or on a motor vehicle for the primary purpose of reducing emissions.

"Emissions inspection" means an emissions inspection of a motor vehicle performed by an emissions inspector employed by or working at an emissions inspection station or fleet emissions inspection station, using the tests, procedures, and provisions set forth in this chapter.

"Emissions inspection station" means a facility or portion of a facility that has obtained an emissions inspection station permit from the director authorizing the facility to perform emissions inspections in accordance with the provisions of this chapter.

"Emissions inspector" means a person licensed by the department to perform inspections of vehicles required under the Virginia Motor Vehicle Emissions Control Law and is qualified in accordance with this chapter.

"Emissions standard" means any provision of Part III (9VAC5-91-160 et seq.) or Part XIV (9VAC5-91-790 et seq.) that prescribes an emission limitation, or other emission control requirements for motor vehicle air pollution.

"Empty weight (EW)" means that weight stated as the EW on a Virginia motor vehicle registration or derived from the motor vehicle title or manufacturer's certificate of origin. The EW may be used to determine emissions inspection standards.

"Enhanced emissions inspection program" means a motor vehicle emissions inspection including procedures, emissions standards, and equipment required by 40 CFR Part 51, Subpart S or equivalent and consistent with applicable requirements of the federal Clean Air Act. The director will administer the enhanced emissions inspection program. Under the Virginia Motor Vehicle Emissions Control Law, the program requires that affected motor vehicles, unless otherwise exempted, receive biennial inspections at official emissions inspection stations, which may be test and repair

facilities, in accordance with this chapter. Nothing in this program shall bar enhanced emissions inspection stations or facilities from also performing vehicle repairs.

"EPA" means the United States Environmental Protection Agency.

"Equivalent test weight (ETW)" or "emission test weight" means the weight of a motor vehicle as automatically determined by the emissions analyzer system based on vehicle make, model, body, style, model year, engine size, permanently installed equipment, and other manufacturer and aftermarket supplied information, and used for the purpose of assigning dynamometer resistance and exhaust emissions standards for the conduct of an exhaust emissions inspection.

"Evaporative system pressure test" or "pressure test" means a physical test of the evaporative emission control system on a motor vehicle to determine whether the evaporative system vents emissions of volatile organic compounds from the fuel tank and fuel system to an on-board emission control device, and prevents their release to the ambient air under normal vehicle operating conditions. Such testing shall only be conducted at emissions inspection stations upon installation of approved equipment and software necessary for performing the test, as determined by the director.

"Exhaust gas analyzer" means an instrument that is capable of measuring the concentrations of certain air pollutants in the exhaust gas from a motor vehicle.

"Facility" means something that is built, installed or established to serve a particular purpose; includes, but is not limited to, buildings, installations, public works, businesses, commercial and industrial plants, shops and stores, apparatus, processes, operations, structures, and equipment of all types.

"Federal Clean Air Act" means ~~42 USC § 7401 et seq~~ Chapter 85 (§ 7401 et seq.) of Title 42 of the United States Code.

"Fleet" means 20 or more motor vehicles that are owned, operated, leased or rented for use by a common owner.

"Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

"Flexible-fuel vehicle" means any motor vehicle capable of operating on two or more fuels, either one at a time or any mixture of two or more different fuels.

"Formal hearing" means a board or department process that provides for the right of private parties to submit factual proofs as provided in § 2.2-4020 of the Administrative Process Act in connection with case decisions. Formal hearings do not include the factual inquiries of an informal nature provided in § 2.2-4019 of the Administrative Process Act.

"Fuel control systems" means those mechanical, electro-mechanical, galvanic or electronic parts or assemblies which regulate the air-to-fuel ratio in an engine for the purpose of providing a combustible charge.

"Fuel filler cap pressure test" or "gas cap pressure test" means a test of the ability of the fuel filler cap to prevent the release of fuel vapors from the fuel tank under normal operating conditions.

"Gas span" means the adjustment of an exhaust gas analyzer to correspond with known concentrations of gases.

"Gas span check" means a procedure using known concentrations of gases to verify the gas span adjustment of an analyzer.

"Gross vehicle weight rating (GVWR)" means the maximum recommended combined weight of the motor vehicle and its load as prescribed by the manufacturer and is (i) expressed on a permanent identification label affixed to the motor vehicle; (ii) stated on the manufacturer's certificate of origin; or (iii) coded in the vehicle identification number. If the GVWR can be determined it shall be one element used to determine emissions inspection standards and test type. If the GVWR is unavailable, the department may make a determination based on the best available evidence including manufacturer reference, information coded in the vehicle identification number, or other available sources of information from which to make the determination.

"Heavy duty gasoline vehicle (HDGV)" means a heavy duty vehicle using gasoline as its fuel.

"Heavy duty vehicle (HDV)" means any affected motor vehicle (i) which is rated at more than 8,500 pounds GVWR or (ii) which has a loaded vehicle weight or GVWR of more than 6,000 pounds and has a basic frontal area in excess of 45 square feet.

"High emitter index" means the method of categorizing the probable emissions inspection failure-rates of engine families. Values within the index are determined by computing the percentile of the historical emissions inspection failure rate of a specific engine family, i.e., a specific group of vehicles with the same vehicle type, year, make and engine size, to the historical emissions inspection failure rate of all engine families in a specific model year group. Failure rates are based on the most recent full year of emissions inspection test data from the Virginia Motor Vehicle Emissions Control Program. Vehicles with an index value above 75 are considered "high-emitters."

"Identification number" means the number assigned by the department to uniquely identify department personnel, an emissions inspection station, a certified emissions repair facility, a licensed emissions inspector, a certified emissions repair technician or other authorized personnel as necessary for specific tasks.

"Idle mode" means a condition where the vehicle engine is warm and running at the rate specified by the manufacturer as curb idle, where the engine is not propelling the vehicle, and where the throttle is in the closed or idle stop position.

"Ignition systems" means those parts or assemblies that are designed to cause and time the ignition of a compressed air and fuel charge.

"Implementation plan" means the plan, including any revision thereof, that has been submitted by the Commonwealth and approved in Subpart VV of 40 CFR Part 52 by the administrator under § 110 of the federal Clean Air Act, or promulgated in Subpart VV of 40 CFR Part 52 by the administrator under § 110(c) of the federal Clean Air Act, or promulgated or approved by the administrator pursuant to regulations promulgated under § 301(d) of the federal Clean Air Act and that implements the relevant requirements of the federal Clean Air Act.

"Informal fact finding" means an informal conference or consultation proceeding used to ascertain the fact basis for case decisions as provided in § 2.2-4019 of the Administrative Process Act.

"Initial inspection" means the first complete emissions inspection of a motor vehicle conducted in accordance with the biennial inspection requirement and for which a valid vehicle emissions inspection report was issued. Any test following the initial inspection is a retest or reinspection.

"Inspection area" means the area that is occupied by the certified analyzer system and the vehicle being inspected.

"Inspection fee" means the amount of money that the emissions inspection station may collect from the motor vehicle owner for each chargeable inspection.

"Light duty gasoline vehicle (LDGV)" means a light duty vehicle using gasoline as its fuel.

"Light duty gasoline truck (LDGT1)" means a light duty truck 1 using gasoline as its fuel.

"Light duty gasoline truck (LDGT2)" means a light duty truck 2 using gasoline as its fuel."

"Light duty truck (LDT)" means any affected motor vehicle which (i) has a loaded vehicle weight or GVWR of 6,000 pounds or less and meets any one of the criteria below; or (ii) is rated at more than 6,000 pounds GVWR but less than 8,500 pounds GVWR and has a basic vehicle frontal area of 45 square feet or less; and meets one of the following criteria:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle.
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons.
3. Equipped with special features enabling off-street or off-highway operation and use.

Regulations

"Light duty truck 1 (LDT1)" means any light duty truck rated at 6,000 pounds GVWR or less. LDT1 is a subset of light duty trucks.

"Light duty truck 2 (LDT2)" means any light duty truck rated at greater than 6,000 pounds GVWR. LDT2 is a subset of light duty trucks.

"Light duty vehicle (LDV)" means an affected motor vehicle that is a passenger car or passenger car derivative capable of seating 12 passengers or less.

"Loaded vehicle weight (LVW)" or "curb weight" means the weight of a vehicle and its standard equipment; i.e., the empty weight as recorded on the vehicle's registration or the base shipping weight as recorded in the vehicle identification number, whichever is greater; plus the weight of any permanent attachments, the weight of a nominally filled fuel tank, plus 300 pounds.

"Locality" means a city, town, or county created by or pursuant to state law.

"Mobile fleet emissions inspection station" means a facility or entity that provides emissions inspection equipment or services to a fleet emissions inspection station on a temporary basis. Such equipment is not permanently installed at the fleet facility but is temporarily located at the fleet facility for the sole purpose of testing vehicles owned, operated, leased or rented for use by a common owner.

"Model year" means, except as may be otherwise defined in this chapter, the motor vehicle manufacturer's annual production period which includes the time period from January 1 of the calendar year prior to the stated model year to December 31 of the calendar year of the stated model year; provided that, if the manufacturer has no annual production period, the term "model year" shall mean the calendar year of manufacture. For the purpose of this definition, model year is applied to the vehicle chassis, irrespective of the year of manufacture of the vehicle engine.

"Motor vehicle" means any motor vehicle as defined in § 46.2-100 of the Code of Virginia as a motor vehicle and that:

1. Is designed for the transportation of persons or property; and
2. Is powered by an internal combustion engine.

"Motor vehicle dealer" means a person who is licensed by the Department of Motor Vehicles in accordance with §§ 46.2-1500 and 46.2-1508 of the Code of Virginia.

"Motor vehicle inspection report" means a printed certificate of emissions inspection that is a report of the results of an emissions inspection. It indicates whether the motor vehicle has (i) passed, (ii) failed, or (iii) obtained a temporary emissions inspection waiver. It may also indicate whether the emissions inspection could not be completed due to an exhaust dilution or an engine condition that prevents the

inspection from being completed. The report shall accurately identify the motor vehicle and shall include inspection results, recall information provided by the department, warranty and repair information, and a unique identification number.

"Motor vehicle owner" means any person who owns, leases, operates, or controls a motor vehicle or fleet of motor vehicles.

"Nonconforming vehicle" means a vehicle not manufactured for sale in the United States to conform to emissions standards established by the federal government.

"Normal business hours" for emissions inspection stations, means a daily eight-hour period Monday through Friday, between the hours of 8 a.m. and 6 p.m., with the exception of national holidays, state holidays, temporary closures noticed to the department and closures due to the inability to meet the requirements of this chapter. Nothing in this chapter shall prevent stations from performing inspections at other times in addition to the "normal business hours." Emissions inspection stations may, with the approval of the department, substitute a combined total of eight hours, between 8 a.m. and 6 p.m., over a weekend period for one weekday as their "normal business hours" for conducting emission inspections. Emissions inspection stations shall post inspection hours.

"Northern Virginia emissions inspection program" means the emissions inspection program required by this chapter in the Northern Virginia program area.

"Northern Virginia program area" or "program area" means the territorial area encompassed by the boundaries of the following localities: the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.

"On-board diagnostic system (OBD system)" means the computerized emissions control diagnostic system installed on model year 1996 and newer affected motor vehicles.

"On-board diagnostic system test (OBD) system test" means an evaluation of the OBD system pursuant to 40 CFR 86.094-17 according to procedures specified in 40 CFR 85.2222 and this chapter.

"On-board diagnostic vehicle (OBD vehicle)" means a model year 1996 and newer model affected motor vehicle equipped with an on-board diagnostic system and meeting the requirements of 40 CFR 85.2231.

"On-road testing" means tests of motor vehicle emissions or emissions control devices by means of roadside pullovers or remote sensing devices.

"Operated primarily" means motor vehicle operation that constitutes routine operation into or within the program area as evidenced by observation using remote sensing equipment at least three times in a 60-day period with no less than 30

days between the first and last observation. The director may increase the number of observations required for compliance determination if, in his discretion, based on program experience, such an increase would not significantly adversely impact the objectives of this chapter. The term "operated primarily" shall be used to identify motor vehicle operation that is subject to the exhaust emission standards for on-road testing through remote sensing set forth in 9VAC5-91-180. The term "operated primarily" shall not be used to identify motor vehicle operation that will subject the vehicle to the compliance provisions set forth in 9VAC5-91-160 and 9VAC5-91-170 for biennial emissions inspections.

"Order" means any decision or directive of the board or the director, including orders, consent orders, and orders of all types rendered for the purpose of diminishing or abating the causes of air pollution or enforcement of this chapter. Unless specified otherwise in this chapter, orders shall only be issued after the appropriate administrative proceeding.

"Original condition" means the condition of the vehicle, parts, and components as installed by the manufacturer but not necessarily to the original level of effectiveness.

"Owner" means any person who owns, leases, operates, controls or supervises a facility or motor vehicle.

"Party" means any person who actively participates in the administrative proceeding or offers comments through the public participation process and is named in the administrative record. The term "party" also means the department.

"Person" means an individual, corporation, partnership, association, a governmental body, a municipal corporation, or any other legal entity.

"Pollutant" means any substance the presence of which in the outdoor atmosphere is or may be harmful or injurious to human health, welfare or safety, to animal or plant life, or to property, or which unreasonably interferes with the enjoyment by the people of life or property.

"Qualified hybrid motor vehicle" means a motor vehicle that (i) meets or exceeds all applicable regulatory requirements, (ii) meets or exceeds the applicable federal motor vehicle emissions standards for gasoline-powered passenger cars, and (iii) can draw propulsion energy both from gasoline or diesel fuel and a rechargeable energy storage system.

"Reconstructed vehicle" means every vehicle of a type required to be registered under Title 46.2 (§ 46.2-100 et seq.) of the Code of Virginia, materially altered from its original construction by the removal, addition or substitution of new or used essential parts. Such vehicles, at the discretion of the Department of Motor Vehicles, shall retain their original vehicle identification number, line-make, and model year.

"Referee station" means those facilities operated or used by the department to (i) determine program effectiveness, (ii)

resolve emissions inspection conflicts between motor vehicle owners and emissions inspection stations, and (iii) provide such other technical support and information, as appropriate, to emissions inspection stations and motor vehicle owners.

"Reference method" means any method of sampling and analyzing for an air pollutant as described in Appendix A of 40 CFR Part 60.

"Reinspection" or "retest" means a type of inspection selected by the department or the emissions inspector when a request for an inspection is due to a previous failure. Any inspection that occurs 120 days or less following the most recent chargeable inspection is a retest.

"Rejected" or "rejected from testing" means that the vehicle cannot be inspected due to conditions in accordance with 9VAC5-91-420 C or 9VAC5-91-420 G 3.

"Remote sensing" means the observation, measurement, and recordation of motor vehicle exhaust emissions from motor vehicles while traveling on roadways or in specified areas by specialized equipment. Such equipment may use light sensing and electronic stimuli in conjunction with devices, including videographic and digitized images, to detect and record vehicle identification information, such as registration or other identification numbers.

"Replica vehicle" means every vehicle of a type required to be registered under Title 46.2 (§ 46.2-100 et seq.) of the Code of Virginia not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600 of the Code of Virginia, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle. Any vehicle registered as a replica vehicle shall meet emission requirements as established for the model year of which the vehicle is a replica.

"Sensitive mission vehicle" means any vehicle which, for law enforcement or national security reasons, cannot be tested in the public inspection system and must not be identified through the fleet testing system. For such vehicles, an autonomous fleet testing system may be established by agreement between the controlling agency and the director.

"Span gas" means gases of known concentration used as references to adjust or verify the accuracy of an exhaust gas analyzer that are approved by the department and are so labeled.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of

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vehicles and not a reconstructed vehicle as defined in this section.

"Standard conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm of H_g (29.92 inches of H_g).

"Standardized instruments" means laboratory instruments calibrated with precision gases traceable to the National Institute of Standards and Technology and accepted by the department as the standards to be used for comparison purposes. All candidate instruments are compared in performance to the standardized instruments.

"Tactical military vehicle" means any motor vehicle designed to military specifications or a commercially designed motor vehicle modified to military specifications to meet direct transportation support of combat, tactical, or military relief operations, or training of personnel for such operations.

"Tampering" means to alter, remove or otherwise disable or reduce the effectiveness of emissions control equipment on a motor vehicle.

"Test" means an emissions inspection of a vehicle, or any portion thereof, performed by an emissions inspector at an emissions inspection station, using the procedures and provisions set forth in this chapter.

"Test and repair" means motor vehicle emissions inspection stations that perform emissions inspections and may also perform vehicle repairs. No provision of this chapter shall bar emissions inspection stations from also performing vehicle repairs.

"Thermostatic air cleaner" means a system that supplies temperature-regulated air to the air intake system during engine operation.

"True concentration" means the concentration of the gases of interest as measured by a standardized instrument that has been calibrated with 1.0% precision gases traceable to the National Bureau of Standards.

"Two-speed idle test (TSI)" means a vehicle exhaust emissions test, performed in accordance with section (II) of 40 CFR Part 51, Appendix B to Subpart S, which measures the concentrations of pollutants in the exhaust gases of an engine (i) while the motor vehicle transmission is not propelling the vehicle and (ii) while the engine is operated at both curb idle and at a nominal engine speed of 2,500 rpm.

"Vehicle specific power (VSP)" means an indicator expressed as a function of vehicle speed, acceleration, drag coefficient, tire rolling resistance and roadway grade that is used to characterize the load a vehicle is operating under at the time and place a vehicle is measured by remote sensing equipment. It is calculated using the following formula:

$$\text{VSP} = 4.39 \times \text{Sine} (\text{Site Grade in Degrees}/57.3) \times \text{Speed} + \text{K1}$$

$$\times \text{Speed} \times \text{Acceleration} + \text{K2} \times \text{Speed} + \text{K3} \times \text{Speed}^3.$$

Where:

VSP = vehicle specific power indicator;

Sine = the trigonometric function that for an acute angle is the ratio between the side opposite the angle when it is considered part of a right triangle and the hypotenuse;

Site Grade in Degrees = slope of road where remote sensing measurement is taken;

K1, K2 and K3 = empirically determined coefficients specific to the weight class of the vehicle;

Speed = rate of motion in miles per hour of vehicle at the time remote sensing measurement is taken; and

Acceleration = change in speed in miles per hour per second.

For light duty vehicles the values for K1, K2 and K3 are respectively 0.22, 0.0954 and 0.0000272. Based on EPA guidance, the department may develop different values for K1, K2 and K3 that are applicable to heavy duty vehicles or to specific classes of light duty vehicles.

"Virginia Motor Vehicle Emissions Control Program" means the program for the inspection and control of motor vehicle emissions established by Virginia Motor Vehicle Emissions Control Law.

"Virginia Motor Vehicle Emissions Control Law" means Article 22 (§ 46.2-1176 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

"Visible smoke" means any air pollutant, other than visible water droplets, consisting of black, gray, blue or blue-black airborne particulate matter emanating from the exhaust system or crankcase. Visible smoke does not mean steam.

"Zero gas" means a gas, usually air or nitrogen, which is used as a reference for establishing or verifying the zero point of an exhaust gas analyzer.

VA.R. Doc. No. R09-1022; Filed November 3, 2008, 3:11 p.m.

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from 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 State Air Pollution Control Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC5-140. Regulation for Emissions Trading Programs (amending 9VAC5-140-900, 9VAC5-140-920, 9VAC5-140-930).

Statutory Authority: §§ 10.1-1308 and 10.1-1322.3 of the Code of Virginia; §§ 108, 109, 110 and 302 of the Clean Air Act; 40 CFR Part 51.

Effective Date: December 31, 2008.

Agency Contact: Mary E. Major, Environmental Program Manager, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, TTY (804) 698-4021, or email mlmajor@deq.virginia.gov.

Summary:

The regulation establishes a NO_x Budget Trading Program (i.e., NO_x SIP Call program) as a means of mitigating the interstate transport of ozone and nitrogen oxides including the following provisions: permitting allowance methodology, monitoring, banking, compliance supplement pool, compliance determination and opt-in provisions for sources not covered by the regulation.

Beginning May 31, 2004, electric generating units with a nameplate capacity greater than 25 MWe and nonelectric generating units above 250 mmBtu will be subject to the provisions of the regulation. NO_x emissions from subject units shall be subject to a specific limited budget (measured in tons) during the summer months of May 1 through September 31, otherwise know as the control period. The NO_x budget shall be determined through a methodology based upon emission rates multiplied by heat input. If a unit does not use all of its allowances for a specific control period, those extra tons may be banked for future use or sold. If a unit exceeds the budget limit, additional allowances may be purchased or the source may use banked allowances to offset the amount of NO_x generated above the budget limit.

An allocation set-aside budget is available to accommodate new sources that receive permits and commence operation after the distribution to the qualifying units (those in operation at least two years before the distribution date).

On May 12, 2005 (70 FR 25162), EPA published the final Clean Air Interstate Rule (CAIR), designed to reduce the interstate transport of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) across the eastern portion of the United States and help states and localities attain the eight-hour ozone and fine particles (PM_{2.5}) standards. In essence, this program was intended to replace the seasonal NO_x SIP Call program as well as create an annual trading program for NO_x and SO₂ starting in 2009.

On July 11, 2008, a three-member panel of the U.S. Court of Appeals for the D.C. Circuit vacated the entire EPA CAIR regulation. In the absence of the EPA regulation, § 10.1-1328 of the Code of Virginia does not provide a legal basis for a state CAIR regulation (Parts II, III and IV of

this regulation), which is based upon the federal regulation; thus, state CAIR regulation cannot be implemented.

The NO_x SIP Call program is still in effect and can be used to help the Commonwealth meet its obligation to reduce the transport of upwind NO_x emissions to downwind states. In reviewing the NO_x SIP Call regulation it was determined that regulatory language inadvertently ended the state budget in 2008.

To rectify this oversight, NO_x Trading Budgets for both EGU and non-EGU sources have been extended beyond 2008; however, the size of the NO_x Trading Budgets remain unchanged.

Article 10

State Trading Program Budget and Compliance Supplement Pool

9VAC5-140-900. State trading program budget.

For use in each control period for the ~~years 2004 through 2008~~ year 2004 and each year thereafter, the total number of NO_x tons apportioned to all NO_x Budget units is the sum of the NO_x tons apportioned under 9VAC5-140-920 and 9VAC5-140-930.

9VAC5-140-920. Total electric generating unit allocations.

A. For use in each control period for the years 2004 through 2008, the total number of NO_x tons apportioned to all NO_x Budget units under 9VAC5-140-40 A 1 is the number of NO_x tons specified for EGUs for the Commonwealth of Virginia in Appendix C to 40 CFR Part 97.

B. For use in each control period for the year 2009 and each year thereafter, the total number of NO_x tons apportioned to all NO_x Budget units under 9VAC5-140-40 A 1 is 17,091.

9VAC5-140-930. Total nonelectric generating unit allocations.

A. For use in each control period for the years 2004 through 2008, the total number of NO_x tons apportioned to all NO_x Budget units under 9VAC5-140-40 A 2 is 4,104.

B. For use in each control period for the year 2009 and each year thereafter, the total number of NO_x tons apportioned to all NO_x Budget units under 9VAC5-140-40 A 2 is 4,104.

VA.R. Doc. No. R09-1517; Filed November 3, 2008, 3:11 p.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulatory actions are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The State Air Pollution Control

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Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC5-151. Regulation for Transportation Conformity (amending 9VAC5-151-10, 9VAC5-151-20, 9VAC5-151-40, 9VAC5-151-70; repealing 9VAC5-151-61).

Statutory Authority: § 10.1-1308 of the Code of Virginia; § 176(c) of the federal Clean Air Act.

Effective Date: December 31, 2008.

Agency Contact: Mary E. Major, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, FAX (804) 698-4510, or email memajor@deq.virginia.gov.

Summary:

This regulation requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. In particular, 9VAC5-151-70 outlines specifically how the various government agencies, federal, state and local, will interact and consult with each other and the public in developing transportation plans and projects.

The amendments to the existing regulation include: updating several definitions (9VAC5-151-10); updating applicability provisions to ensure conformity determinations are consistent with federal requirements (9VAC5-151-20); updating provisions incorporated by reference to reflect 2008 CFR (9VAC5-151-40); repealing certain exemption provisions (9VAC5-151-61); and amending the consultation provisions to remove reference to the unified work plans (9VAC5-151-70).

Part I
General Definitions

9VAC5-151-10. Definitions.

A. For the purpose of this chapter and subsequent amendments or any orders issued by the board, the words or terms shall have the meanings given them in this section.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in this chapter, terms used shall have the meanings given them by the federal Clean Air Act, Titles 23 and 49 of the United States Code, 40 CFR 93.101, other U.S. Environmental Protection Agency regulations, other USDOT regulations, 9VAC5-170-20 (definitions, Regulation for General Administration), or commonly ascribed to them by recognized authorities, in that order of priority.

C. Terms defined.

"Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

"Applicable implementation plan" or "implementation plan" means, as defined in § 302(q) of the federal Clean Air Act, the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under § 110, or promulgated under § 110(c), or promulgated or approved pursuant to regulations promulgated under § 301(d) and which implements the relevant requirements of the federal Clean Air Act.

"Board" means the State Air Pollution Control Board or its designated representative.

"Control strategy implementation plan revision" means the implementation plan that contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy the federal Clean Air Act requirements for demonstrations of reasonable further progress and attainment (including implementation plan revisions submitted to satisfy §§ 172(c), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 187(g), 189(a)(1)(B), 189(b)(1)(A), and 189(d); §§ 192(a) and 192(b), for nitrogen dioxide; and any other applicable provision of the federal Clean Air Act requiring a demonstration of reasonable further progress or attainment).

"Criteria pollutant" means any pollutant for which a national ambient air quality standard is established in 40 CFR Part 50.

"DEQ" means any employee or other representative of the Virginia Department of Environmental Quality, as designated by the director.

"DEQ Director" means the director of the Virginia Department of Environmental Quality or a designated representative.

"Donut areas" means geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of one or more metropolitan areas. These areas are not isolated rural nonattainment and maintenance areas.

"Emergency" means a situation that immediately and unreasonably affects, or has the potential to immediately and unreasonably affect, public health, safety, or welfare; the health of animal or plant life; or property, whether used for recreational, commercial, industrial, agricultural or other reasonable use.

"EPA" means the U.S. Environmental Protection Agency.

"Federal Clean Air Act" means ~~42 USC § 7401 et seq.~~ Chapter 85 (§ 7401 et seq.) of Title 42 of the United States Code.

"FHWA" means the Federal Highway Administration of U.S. Department of Transportation (USDOT).

"FHWA/FTA project" means any highway or transit project that is proposed to receive funding assistance and approval through the Federal-Aid Highway Program or the federal mass transit program, or requires FHWA or FTA approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.

"FTA" means the Federal Transit Administration of USDOT.

"Highway project" means an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it must be defined sufficiently to:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
2. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

"Isolated rural nonattainment and maintenance areas" means areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have federally required metropolitan transportation plans or TIPs and do not have projects that are part of the emissions analysis of any MPO's metropolitan transportation plan or TIP. Projects in such areas are instead included in statewide transportation improvements programs. These areas are not donut areas.

"LPO" or "Lead Planning Organization" means the organization certified by the state as being responsible for the preparation of control strategy implementation plan revisions for nonattainment areas under § 174 of the federal Clean Air Act. The organization includes elected officials of local governments in the affected nonattainment area, and representatives of DEQ, VDOT, the MPO(s) for the affected area, and other agencies and organizations that have responsibilities for developing, submitting or implementing any of the plan revisions. It is the forum for cooperative air quality planning decisionmaking.

"Maintenance area" means any geographic region of the United States previously designated nonattainment under § 107 of the federal Clean Air Act and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan.

"Maintenance plan" means a revision to the applicable implementation plan, meeting the requirements of § 175A of the federal Clean Air Act.

"MPO" or "Metropolitan Planning Organization" means the organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 USC § 134 and ~~49 USC § 5303~~ created as a result of the designation process in 23 USC § 134(d). It is the forum for cooperative transportation decision-making.

"NEPA" means the National Environmental Policy Act of 1969 as amended (42 USC § 4321 et seq.)

"NEPA process completion" means, with respect to FHWA or FTA, the point at which there is a specific action to make a determination that a project is categorically excluded, to make a Finding of No Significant Impact, or to issue a record of decision on a Final Environmental Impact Statement under NEPA.

"Nonattainment area" means any geographic region of the United States that has been designated as nonattainment under § 107 of the federal Clean Air Act for any pollutant for which a national ambient air quality standard exists.

"PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by the applicable reference method or an equivalent method.

"Project" means a highway project or transit project.

"Recipient of funds designated under Title 23 USC or the Federal Transit Laws" means any agency at any level of state, county, city, or regional government that routinely receives Title 23 USC or Federal Transit Laws funds to construct FHWA/FTA projects, operate FHWA/FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.

"Regionally significant project" means a transportation project (other than an exempt project) that is on a facility that serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.

"TCM" or "transportation control measure" means any measure that is specifically identified and committed to in the applicable implementation plan, including a substitute or

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additional TCM that is incorporated into the applicable implementation plan through the process established in § 176 (c)(8) of the federal Clean Air Act, that is either one of the types listed in § 108 of the federal Clean Air Act, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology-based, fuel-based, and maintenance-based measures that control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this chapter.

"TIP" or "transportation improvement program" means a ~~staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area that is consistent with the metropolitan transportation plan, and developed pursuant to 23 CFR Part 450~~ transportation improvement program developed by a metropolitan planning organization under 23 USC § 134(j).

"Transit" means mass transportation by bus, rail, or other conveyance that provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.

"Transit project" means an undertaking to implement or modify a transit facility or transit-related program; purchase transit vehicles or equipment; or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it must be defined inclusively enough to:

1. Connect logical termini and be of sufficient length to address environmental matters on a broad scope;
2. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made; and
3. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

"Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR Part 450.

"Transportation project" means a highway project or a transit project.

"USDOT" means the U.S. Department of Transportation.

"VDOT" means the Virginia Department of Transportation.

"VDRPT" means the Virginia Department of Rail and Public Transportation.

"Welfare" means that language referring to effects on welfare includes, but is not limited to, effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.

Part II General Provisions

9VAC5-151-20. Applicability.

A. The provisions of this chapter shall apply to the following actions:

1. Except as provided for in subsection C of this section or 40 CFR 93.126, conformity determinations are required for:

- a. The adoption, acceptance, approval or support of transportation plans and transportation plan amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a MPO or USDOT;
- b. The adoption, acceptance, approval or support of TIPs and TIP amendments developed pursuant to 23 CFR Part 450 or 49 CFR Part 613 by a MPO or USDOT; and
- c. The approval, funding, or implementation of FHWA/FTA projects.

2. Conformity determinations are not required under this chapter for individual projects that are not FHWA/FTA projects. However, 40 CFR 93.121 applies to the projects if they are regionally significant.

3. This chapter shall apply to conformity determinations for which the final decision is made on or after the program approval date. For purposes of applying this subdivision, the program approval date of the regulation adopted by the board on March 26, 2007, shall be the date 30 days after the date on which a notice is published in the Virginia Register acknowledging that the administrator has approved the regulation adopted by the board on March 26, 2007.

B. The provisions of this chapter shall apply in all nonattainment and maintenance areas for transportation-related criteria pollutants for which the area is designated nonattainment or has a maintenance plan.

1. The provisions of this chapter apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀); and particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}).

2. The provisions of this chapter also apply with respect to emissions of the following precursor pollutants:

a. Volatile organic compounds (VOCs) and nitrogen oxides (NO_x) in ozone areas;

b. NO_x in nitrogen dioxide areas;

c. VOCs or NO_x or both, in PM₁₀ areas:

(1) If the EPA Regional Administrator or the DEQ Director has made a finding that transportation-related emissions of one or both of these precursors within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT; or

(2) If the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy;

d. NO_x in PM_{2.5} areas:

(1) Unless both the EPA Regional Administrator and the DEQ Director have made a finding that transportation-related emissions of NO_x within the nonattainment area are not a significant contributor to the PM_{2.5} nonattainment problem and have so notified the MPO and USDOT, or

(2) The applicable implementation plan (or implementation plan submission) does not establish an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy; and

e. VOC, ~~sulfur oxides (SO_x)~~ sulfur dioxide (SO₂) and/or ammonia (NH₃) in PM_{2.5} areas either:

(1) If the EPA Regional Administrator or the DEQ Director has made a finding that transportation-related emissions of any of these precursors within the nonattainment area are a significant contributor to the PM_{2.5} nonattainment problem and has so notified the MPO and USDOT, or

(2) If the applicable implementation plan (or implementation plan submission) establishes an approved (or adequate) budget for such emissions as part of the reasonable further progress, attainment or maintenance strategy.

3. The provisions of this chapter apply to PM_{2.5} nonattainment and maintenance areas with respect to PM_{2.5} from re-entrained road dust if the EPA Regional Administrator or the DEQ Director has made a finding that re-entrained road dust emissions within the area are a significant contributor to the PM_{2.5} nonattainment problem and has so notified the MPO and USDOT, or if the applicable implementation plan (or implementation plan submission) includes re-entrained road dust in the approved (or adequate) budget as part of the reasonable

further progress, attainment or maintenance strategy. Re-entrained road dust emissions are produced by travel on paved and unpaved roads (including emissions from anti-skid and deicing materials).

4. The provisions of this chapter apply to maintenance areas ~~for 20 years from the date EPA approves the area's request under § 107(d) of the federal Clean Air Act for redesignation to attainment, through the last year of the area's maintenance plan approved under § 175A(b) of the federal Clean Air Act,~~ unless the applicable implementation plan specifies that the provisions of this chapter shall apply for more than 20 years.

C. In order to receive any FHWA/FTA approved or funding actions, including NEPA approvals, for a project phase subject to this chapter, a currently conforming transportation plan and TIP must be in place at the time of project approval as described in 40 CFR 93.114, except as provided by 40 CFR 93.114(b).

D. For areas or portions of areas that have been continuously designated attainment or not designated for any National Ambient Air Quality Standard for ozone, CO, PM₁₀, PM_{2.5} or NO₂ since 1990 and are subsequently redesignated to nonattainment or designated nonattainment for any National Ambient Air Quality Standard for any of these pollutants, the provisions of this chapter shall not apply with respect to that National Ambient Air Quality Standard for 12 months following the effective date of final designation to nonattainment for each National Ambient Air Quality Standard for such pollutant.

Part III
Criteria And Procedures For Making Conformity
Determinations

9VAC5-151-40. General.

The Environmental Protection Agency (EPA) regulations promulgated at 40 CFR Part 93, Subpart A (Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 USC or the Federal Transit Laws) and designated in 9VAC5-151-50 are ~~unless indicated otherwise in 9VAC5-151-61,~~ incorporated by reference into this chapter as amended by the word or phrase substitutions given in 9VAC5-151-60. The 40 CFR section numbers appearing in 9VAC5-151-50 identify the specific provisions incorporated by reference. The specific version of the provisions incorporated by reference shall be that contained in the CFR ~~(2006)~~ (2008) in effect ~~July 1, 2006~~ July 1, 2008.

9VAC5-151-61. Exceptions to the designated provisions incorporated by reference. (Repealed.)

~~A. For purposes of incorporation by reference under 9VAC5-151-40, the following provision shall not be included: 40 CFR 93.109(e)(2)(v).~~

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~~B. For purposes of incorporation by reference under 9VAC5-151-40, 40 CFR 93.109(e)(2) is amended to read as follows: "(2) Prior to paragraph (e)(1) of this section applying, the following test(s) must be satisfied:"~~

9VAC5-151-70. Consultation.

A. The MPOs, LPOs, DEQ, VDOT and VDRPT shall undertake the procedures prescribed in this section for interagency consultation, conflict resolution and public consultation with each other and with local or regional offices of EPA, FHWA, and FTA on the development of control strategy implementation plan revisions, the list of TCMs in the applicable implementation plan, ~~the unified planning work program under 23 CFR 450.314~~, transportation plans, TIPs, and associated conformity determinations required by this chapter.

B. Until EPA grants approval of this chapter, the MPOs, and VDOT and VDRPT, prior to making conformity determinations, shall provide reasonable opportunity for consultation with LPOs, DEQ and EPA on the issues in subdivision D 1 of this section.

C. The provisions of this subsection shall be followed with regard to general factors associated with interagency consultation.

1. Representatives of the MPOs, VDOT, VDRPT, FHWA, and FTA shall undertake an interagency consultation process, in accordance with subdivisions 1 and 3 of this subsection and subsection D of this section, with the LPOs, DEQ and EPA on the development of ~~the unified planning work program under 23 CFR 450.314~~ implementation plans, transportation plans, TIPs, any revisions to the preceding documents, and associated conformity determinations.

a. MPOs, or their designee, shall be the lead agencies responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of ~~the unified planning work program under 23 CFR 450.314~~, the transportation plan, the TIP, and any amendments or revisions thereto. In the case of nonmetropolitan areas, VDOT shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of the statewide transportation plan, the statewide TIP, and any amendments or revisions thereto. The MPOs shall be the lead agencies responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to any determinations of conformity under this chapter for which the MPO is responsible.

b. It shall be the affirmative responsibility of the lead agency to initiate the process by notifying other

participants, convene meetings, assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner, prepare summaries of consultation meetings, maintain a written record of the consultation process, provide final documents and supporting information to each agency after approval or adoption, and to assure the adequacy of the interagency consultation process with respect to the subject document or decision.

c. Regular consultation on major activities (such as the development of a transportation plan, the development of a TIP, or any determination of conformity on transportation plans or TIPs) shall include meetings beginning on a date determined by the lead agency to be adequate to meet the date a final document is required and continuing at frequency mutually determined by the affected agencies. In addition, technical meetings shall be convened as necessary.

d. Each lead agency in the consultation process shall confer with all other agencies identified under subdivision 1 of this subsection with an interest in the document to be developed, provide all information to those agencies needed for meaningful input, solicit early and continuing input from those agencies, and prior to taking any action, consider the views of each agency and respond to those views in a timely, substantive written manner prior to any final decision on the documents. The views and written responses shall be made part of the record of any decision or action.

e. It shall be the responsibility of each agency specified in subdivision 1 of this subsection, when not fulfilling the responsibilities of lead agency, to confer with the lead agency and other participants in the consultation process, review and comment as appropriate (including comments in writing) on all proposed and final documents and decisions in a timely manner, attend consultation and decision meetings, provide input on any area of substantive expertise or responsibility, and provide technical assistance to the lead agency or to the consultation process when requested.

2. Representatives of the LPOs, DEQ, and EPA shall undertake an interagency consultation process, in accordance with this subdivision and subdivision 3 of this subsection, with MPOs, VDOT, VDRPT, FHWA, and FTA on the development of control strategy implementation plan revisions, the list of TCMs in the applicable implementation plan, and any revisions to the preceding documents.

a. The DEQ, in conjunction with the LPOs, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the interagency consultation process with respect to the development of control strategy implementation plan

revisions, the credits associated with the list of TCMs in the applicable implementation plan, and any amendments or revisions thereto.

b. It shall be the affirmative responsibility of the lead agency to initiate the process by notifying other participants, convene meetings, assure that all relevant documents and information are supplied to all participants in the consultation process in a timely manner, prepare minutes of consultation meetings, maintain a written record of the consultation process, provide final documents and supporting information to each agency after approval or adoption, and to assure the adequacy of the interagency consultation process with respect to the subject document or decision.

c. Regular consultation on the development of any control strategy implementation plan revision shall include meetings beginning on a date determined by the lead agency to be adequate to meet the date a final document is required and continuing at frequency mutually determined by the affected agencies. In addition, technical meetings shall be convened as necessary.

d. Each lead agency in the consultation process shall confer with all other agencies identified under subdivision 1 of this subsection with an interest in the document to be developed, provide all information to those agencies needed for meaningful input, solicit early and continuing input from those agencies, and prior to taking any action, consider the views of each agency and respond to those views in a timely, substantive written manner prior to any final decision on the documents. The views and written responses shall be made part of the record of any decision or action.

e. It shall be the responsibility of each agency specified in subdivision 1 of this subsection, when not fulfilling the responsibilities of lead agency, to confer with the lead agency and other participants in the consultation process, review and comment as appropriate (including comments in writing) on all proposed and final documents and decisions in a timely manner, attend consultation and decision meetings, provide input on any area of substantive expertise or responsibility, and provide technical assistance to the lead agency or to the consultation process when requested.

3. The specific roles and responsibilities of various participants in the interagency consultation process shall be as follows:

a. The MPOs shall be responsible for the following:

(1) Developing metropolitan transportation plans and TIPs in accordance with 23 CFR Part 450 and 49 CFR Part 613 and the Safe, Accountable, Flexible, Efficient,

Transportation Equity Act: A Legacy for Users (Public Law No. 109-59).

(2) Adopting conformity determinations in conjunction with the adoption of transportation plans and TIPs and any revisions to the documents.

(3) In cooperation with VDOT, with assistance from VDRPT:

(a) Developing conformity assessments and associated documentation.

(b) Evaluating potential TCM projects and impacts.

(c) (i) Developing or approving transportation and related socio-economic data and planning assumptions, or both, and (ii) providing the data and assumptions for use in air quality analysis for SIP implementation plan tracking and conformity of transportation plans, TIPs and projects.

(d) Monitoring regionally significant projects.

(e) Providing technical and policy input into the development of emissions budgets.

(f) Assuring the proper completion of transportation modeling, regional emissions analyses and documentation of timely implementation of TCMs needed for conformity assessments.

(g) Involving the DEQ and LPOs continuously in the process.

(h) Consulting with FHWA and FTA on (i) timely action on final findings of conformity, after consultation with other agencies as provided in this section; and (ii) guidance on conformity and the transportation planning process to agencies in interagency consultation.

(i) Consulting with EPA on (i) review and approval of updated motor vehicle emissions factors, emission inventories and budgets; and (ii) guidance on conformity criteria and procedures to the agencies involved in the interagency consultation process.

b. The VDOT, with assistance from the VDRPT, shall be responsible for the following:

(1) Developing statewide transportation plans and statewide TIPs.

(2) Providing demand forecasting and on-road mobile source emission inventories.

(3) Circulating draft and final project environmental documents to other agencies.

(4) Convening air quality technical review meetings on specific projects as needed or when requested by other agencies.

(5) In cooperation with the MPOs:

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(a) Developing conformity assessments and associated documentation.

(b) Evaluating potential TCM projects and impacts.

(c) (i) Developing or approving transportation and related planning assumptions, or both, and (ii) providing the data and assumptions for use in air quality analysis for SIP implementation plan tracking and conformity of transportation plans, TIPs and projects.

(d) Monitoring regionally significant projects.

(e) Providing technical and policy input into the development of emissions budgets.

(f) Assuring the proper completion of transportation modeling, regional emissions analyses and documentation of timely implementation of TCMs need for conformity assessments.

(g) Involving the DEQ and LPOs continuously in the process.

(h) Consulting with FHWA and FTA on (i) timely action on final findings of conformity, after consultation with other agencies as provided in this section; and (ii) guidance on conformity and the transportation planning process to agencies in interagency consultation.

(i) Consulting with EPA on (i) review and approval of updated motor vehicle emissions factors, emission inventories and budgets; and (ii) guidance on conformity criteria and procedures to the agencies involved in the interagency consultation process.

c. The LPOs shall be responsible for the following:

(1) Developing emissions inventories and budgets.

(2) Developing control strategy implementation plan revisions and maintenance plans.

(3) Providing a staff liaison to the MPOs for conformity and to be responsive to MPO requests for information and technical guidance.

(4) Involving the MPOs, VDOT AND VDRPT continuously in the process.

d. The DEQ shall be responsible for the following:

(1) Developing emissions inventories and budgets.

(2) Tracking attainment of air quality standards, and emission factor model updates.

(3) Gaining final approval at state level for control strategy implementation plan revisions and maintenance plans.

(4) Providing a staff liaison to the LPOs for conformity and to be responsive to LPO requests for information and technical guidance.

(5) Involving the LPOs continuously in the process.

e. The FHWA and FTA shall be responsible for the following:

(1) Assuring timely action on final findings of conformity, after consultation with other agencies as provided in this section.

(2) Providing guidance on conformity and the transportation planning process to agencies in interagency consultation.

f. The EPA shall be responsible for the following:

(1) Reviewing and approving updated motor vehicle emissions factors.

(2) Providing guidance on conformity criteria and procedures to agencies in interagency consultation.

(3) Assuring timely action on conformity analysis and findings and SIP implementation plan revisions.

4. The MPOs, LPOs, DEQ, VDOT and VDRPT may enter into agreements to set forth specific consultation procedures in more detail that are not in conflict with this section.

D. The provisions of this subsection shall be followed with regard to specific processes associated with interagency consultation.

1. An interagency consultation process involving the MPOs, LPOs, DEQ, VDOT, VDRPT, EPA, FHWA, and FTA shall be undertaken for the following:

a. Evaluating and choosing each model (or models) and associated methods and assumptions to be used in hot-spot analyses and regional emission analyses, including vehicle miles traveled (VMT) forecasting, to be initiated by VDOT, in consultation with the MPOs, and conducted in accordance with subdivisions C 1 and 3 of this section.

b. Determining which transportation projects should be considered "regionally significant" for the purpose of regional emission analysis (in addition to those functionally classified as principal arterial or higher; or fixed guideway systems or extensions that offer an alternative to regional highway travel), and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP, to be initiated by VDOT, in consultation with the MPOs, and conducted in accordance with subdivisions C 1 and 3 of this section.

c. Evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR 93.126 and 40 CFR 93.127 should be treated as nonexempt in cases where potential adverse emissions impacts may exist for any reason, to be initiated by VDOT, in consultation with the

MPOs, and conducted in accordance with subdivisions C 1 and 3 of this section.

d. Making a determination, as required by 40 CFR 93.113(c)(1), whether past obstacles to implementation of TCMs that are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs, to be initiated by VDOT as lead agency, in consultation with the MPOs and VDRPT, and conducted in accordance with subdivisions C 1 and 3 of this section. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or substitute TCMs or other emission reduction measures.

e. Notifying all parties to the consultation process of transportation plan or TIP ~~revisions or~~ amendments that merely add or delete exempt projects listed in 40 CFR 93.126 or 40 CFR 93.127, to be initiated by VDOT in consultation with the MPOs, and conducted in accordance with subdivisions C 1 and 3 of this section.

f. Choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas, as required by 40 CFR 93.109(1)(2)(iii), to be initiated by VDOT, in consultation with the MPOs, and in accordance with subdivisions C 1 and 3 of this section.

g. Determining what forecast of vehicle miles traveled (VMT) to use in establishing or tracking emissions budgets, developing transportation plans, TIPs, or control strategy implementation plan revisions, or making conformity determinations, to be initiated by VDOT, in consultation with the MPOs, and in accordance with subdivisions C 1 and 3 of this section.

2. An interagency consultation process in accordance with subsection C of this section involving the MPOs, LPOs, DEQ, VDOT, and VDRPT shall be undertaken for the following:

a. Evaluating events that may trigger new conformity determinations in addition to those triggering events established by 40 CFR 93.104, to be initiated by VDOT, in consultation with the MPOs and DEQ, and conducted in accordance with subdivisions C 1 and 3 of this section.

b. Consulting on emissions analysis for transportation activities that cross the borders of MPOs or nonattainment areas, to be initiated by VDOT in consultation with the MPOs, and conducted in accordance with subdivisions C 1 and 3 of this section.

3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, an interagency consultation process in accordance with

subdivisions C 1 and 3 of this section involving the MPOs and VDOT shall be undertaken for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area, to be initiated by VDOT, in consultation with the MPOs, and in accordance with subdivisions C 1 and 3 of this section.

4. To assure that plans for construction of regionally significant projects that are not FHWA or FTA projects (including projects for which alternative locations, design concept and scope, or the no-build option are still being considered), including all those by recipients of funds designated under Title 23 USC or the Federal Transit Act, are disclosed to the MPO on a regular basis, and to assure that any changes to those plans are immediately disclosed, an interagency consultation process shall be undertaken, to be initiated by the MPO, in consultation with VDOT, and conducted in accordance with subdivisions C 1 and 3 of this section involving the MPO, VDOT, VDRPT, and recipients of funds designated under Title 23 USC or the Federal Transit Act.

5. An interagency consultation process in accordance with subsections C 1 and 3 of this section involving the MPOs and other recipients of funds designated under Title 23 USC or the Federal Transit Act shall be undertaken for developing assumptions regarding the location and design concept and scope of projects that are disclosed to the MPO as required by subdivision 4 of this subsection but whose sponsors have not yet decided these features in sufficient detail to perform the regional emissions analysis according to the requirements of 40 CFR 93.122, to be initiated by the MPO, in consultation with VDOT, and conducted in accordance with subdivisions C 1 and 3 of this section.

6. An interagency consultation process in accordance with subdivisions C 1 and 3 of this section shall be undertaken for the design, schedule, and funding of research and data collection efforts and model developments in regional transportation (such as household or travel transportation surveys) to be initiated by the MPO, in consultation with VDOT, and conducted in accordance with subdivisions C 1 and 3 of this section.

E. The provisions of this subsection shall be followed with regard to conflict resolution associated with interagency consultation.

1. Unresolved conflicts among state agencies, or between state agencies and the MPO(s), or among MPO member jurisdictions, shall be identified by an MPO or agency in writing to the other MPO, DEQ, VDOT, or VDRPT, with copies to FHWA, FTA and EPA. The MPO's or agency's written notice shall:

a. Explain the nature of the conflict;

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- b. Review options for resolving the conflict;
 - c. Describe the MPO's or agency's proposal to resolve the conflict;
 - d. Explain the consequences of not reaching a resolution; and
 - e. Request that comments on the matter be received within two weeks.
2. If the above action does not result in a resolution to the conflict, either of the following shall apply:
- a. If the conflict is between the MPOs or between the MPO(s) and VDOT or VDRPT or both, then the parties shall follow the coordination procedures of 23 CFR 450.210.
 - b. If the conflict is between the MPO(s) or VDOT or VDRPT and the DEQ and the conflict can not be resolved by the affected agency heads, then the DEQ Director may elevate the conflict to the Governor in accordance with the procedures of subdivision 3 of this section. If the DEQ Director does not appeal to the Governor within 14 days as provided in subdivision 3 a of this subsection, the MPO or VDOT or VDRPT may proceed with its final conformity determination.
3. Appeals to the Governor by the DEQ Director under the provisions of subdivision 2 b of this subsection shall be in accordance with the following procedures:
- a. The DEQ Director has 14 calendar days to appeal to the Governor after the MPO(s) or VDOT or VDRPT has notified the DEQ Director of the agency's or MPO's resolution of DEQ's comments. The notification to the DEQ Director shall be in writing and shall be hand-delivered. The 14-day clock shall commence when VDOT or VDRPT or the MPO has confirmed receipt by the DEQ Director of the agency's or MPO's resolution of the DEQ's comments.
 - b. The appeal to the Governor shall consist of the following: the conformity determination and any supporting documentation; DEQ's comments on the determination; the MPO(s) or VDOT or VDRPT resolution of DEQ's comments; and DEQ's appeal document.
 - c. The DEQ shall provide a complete appeal package to the MPO, VDOT and VDRPT within 24 hours of the time the appeal is filed with the Governor's Office.
 - d. If the Governor does not concur with the conformity determination, he may direct revision of the applicable implementation plan, revision of the planned program of projects, revision of the conformity analysis or any combination of the preceding.

e. If the Governor concurs with the conformity determination made by the MPO and VDOT, the MPO and VDOT may proceed with the final conformity determination.

f. The Governor may delegate his role in this process, but not to the agency head or staff of DEQ, VDOT or VDRPT or the Commonwealth Board of Transportation.

4. Nothing in this section shall prevent the state agencies and MPOs from making efforts upon their own initiative to obtain mutual conflict resolution through conference or other appropriate means.

F. The provisions of this subsection shall be followed with regard to public consultation.

1. The MPOs shall establish a proactive involvement process that provides reasonable opportunity for review and comment by, at a minimum, providing reasonable public access to technical and policy information considered by the MPO at the beginning of the public comment period and prior to taking formal action on a conformity determination for all transportation plans and TIPs, consistent with the requirements of ~~23 CFR 450.316(b)~~ 23 CFR 450.316(a).

2. The MPOs shall specifically address in writing public comments regarding plans for a regionally significant project, not receiving FHWA or FTA funding or approval, and how the project is properly reflected in the emission analysis supporting a proposed conformity finding for a transportation plan or TIP.

3. The MPOs shall also provide an opportunity for public involvement in conformity determinations for projects where otherwise required by law.

VA.R. Doc. No. R09-1646; Filed November 3, 2008, 3:11 p.m.

STATE WATER CONTROL BOARD

Forms

NOTICE: The following forms have been filed by the State Water Control Board. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, VA 23219. Copies of the forms may be obtained from Cindy Berndt, Director, Regulatory Affairs, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23218, or email cberndt@deq.virginia.gov.

Title of Regulation: 9VAC25-790. Sewage Collection and Treatment Regulations.

FORMS (9VAC25-790)

Application for Certificate to Construct (CTC) Under the Sewage Collection and Treatment Regulations, 9VAC25-790 (eff. 10/30/2008).

Application for Certificate to Operate Under the Sewage Collection and Treatment Regulations, 9VAC25-790 (eff. 10/30/2008).

VA.R. Doc. No. R09-1682; Filed November 4, 2008, 1:54 p.m.

Final Regulation

REGISTRAR'S NOTICE: The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 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.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (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, and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: **9VAC25-860. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Potable Water Treatment Plants (adding 9VAC25-860-10 through 9VAC25-860-70).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act.

Effective Date: December 24, 2008.

Agency Contact: George E. Cosby, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, or email gecosby@deq.virginia.gov.

Summary:

This regulation establishes appropriate and necessary permitting requirements for discharge of wastewater from potable water treatment plants. The regulation sets forth standard language for effluent limitations and monitoring requirements necessary to regulate this category of dischargers.

Two changes were made to the regulation from proposed to final. Both can be found in 9VAC25-860-70. The first change is to the reverse osmosis Part IA effluent limitations for the total dissolved solids (TDS) maximum limitation of 800 mg/l to no limitation, monitoring

requirements only. The change is in accordance with Effluent Guidance for Reverse Osmosis (RO) Plants Inter-Department Memorandum dated August 7, 1987. This memorandum states the TDS limit applies to RO plant wastewater discharges where the raw water source is well water. This general permit is applicable to reverse osmosis potable water treatment plants that use surface water as the raw water source.

The second change is to the reverse osmosis Part A effluent limitations for dissolved oxygen maximum limitation 0.011 mg/l to "not applicable" (NA). The change is a correction of a typographical error.

CHAPTER 860

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR POTABLE WATER TREATMENT PLANTS

9VAC25-860-10. Definitions.

The words and terms used in this regulation 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:

"Potable water treatment plants" means establishments primarily engaged in distributing water for sale for domestic, commercial, and industrial use as designated by Standard Industrial Classified (SIC) Code 4941 – Water Supply (Office of Management and Budget (OMB) SIC Manual, 1987).

"Reverse osmosis" means a method of water treatment that involves the application of pressure to a concentrated solution that causes the passage of a liquid from the concentrated solution to a weaker solution across a semi-permeable membrane. The membrane allows the passage of the solvent (water) but not the dissolved solids (solutes).

9VAC25-860-20. Purpose.

This general permit regulation governs the discharge of wastewater from potable water treatment plants to surface waters.

9VAC25-860-30. Delegation of authority.

The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9VAC25-860-40. Effective date of the permit.

This general permit will become effective on [****December 24,] 2008. This general permit will expire five years after the effective date. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-860-50 and the receipt of this general permit.

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9VAC25-860-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9VAC25-860-60, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-860-70, and provided that:

1. The owner has not been required to obtain an individual permit according to 9VAC25-31-170 B 3;
2. The proposed discharge is not to state waters specifically named in other board regulations or policies that prohibit such discharges; and
3. The owner demonstrates that there is not a reasonable potential for toxicity by performing a toxicity screening, the results of which are to be submitted with the registration statement. The toxicity screening shall consist of a minimum of four sets (set = vertebrate and invertebrate) of acute or chronic tests that reflect the characteristics of the current effluent using the following tests and organisms.

<u>For an intermittent or batch discharger</u>	<u>48 hour static acute toxicity tests</u>
<u>Freshwater organisms</u>	<u>Pimephales promelas or Oncorhynchus mykiss (for cold water) (vertebrates)</u> <u>Ceriodaphnia dubia (invertebrate)</u>
<u>Saltwater organisms</u>	<u>Cyprinodon variegates (vertebrate)</u> <u>Americamysis bahia (invertebrate)</u>
<u>For a continuous discharger</u>	
<u>Freshwater</u>	<u>7-Day Chronic Static Renewal Larval Survival and Growth Test with Pimephales promelas (vertebrate)</u> <u>3-Brood Chronic Static Renewal Survival and Reproduction Test with Ceriodaphnia dubia (invertebrate)</u>
<u>Saltwater</u>	<u>7-Day Chronic Static Renewal Larval Survival and Growth Test with Cyprinodon variegatus (vertebrate)</u>

7-Day Chronic Static Renewal Survival, Growth and Fecundity Test with Americamysis bahia (invertebrate)

Freshwater organisms are used where the salinity of the receiving water is less than 1.0%. Where the salinity of the receiving water is greater than 1.0% but less than 5.0% either freshwater or saltwater organisms may be used. Saltwater organisms are used where the salinity is greater than 5.0%.

There shall be a minimum of 30 days between sets of tests, and test procedures shall follow 40 CFR Part 136, which references the EPA guidance manuals for whole effluent toxicity testing. The data will be evaluated statistically to see if there is reasonable potential for toxicity; if such a potential exists, the facility must either continue operation under its existing individual VPDES permit, or apply for an individual VPDES permit.

Facilities that are subject to the requirements of 9VAC25-820-70 Part I G 1 (General VPDES Watershed Permit Regulation for Total Nitrogen and Total Phosphorus Discharges and Nutrient Trading in the Chesapeake Watershed in Virginia - Requirement to Register), are excluded from coverage under this general permit.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9VAC25-860-60. Registration statement.

The owner/operator shall file a complete VPDES general permit registration statement for potable water treatment plants. Any owner/operator proposing a new discharge shall file the registration statement at least 60 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing potable water treatment plants covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing potable water treatment plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

1. Facility name and location address (street no., route no., or other identifier), mailing address, telephone number and the email address;
2. Facility owner's name mailing address, telephone number and the email address;

3. Facility operator name and mailing address and telephone number;

4. The nature of the business;

5. A USGS topographic map showing the facility location extending to at least one mile beyond property boundary and the location of the discharge point(s);

6. The receiving waters of the discharge;

7. The actual or projected wastewater flow rate (typical volume, duration of discharges, and number of discharges per day/week) and the number of outfalls;

8. If the type of water treatment plant is conventional, reverse osmosis, or a combination of both;

9. If this facility currently has an existing VPDES permit, and if so, the permit number;

10. If the existing VPDES permit contains a ground water monitoring plan requirement and, if so, submit a copy of the DEQ approved groundwater monitoring plan;

11. Indicate if the settling basins, lagoons, or both are earthen lined, and if so, whether the units have a permeability of no greater than 10⁻⁶ cm/sec;

12. The results of the whole effluent toxicity evaluation required by 9VAC25-860-50 A 3;

13. A schematic drawing showing the source(s) of water used on the property and the conceptual design of the methods of treatment and disposal of wastewater;

14. Information on chemicals used in the treatment, to include (i) description of chemical, and (ii) proposed or actual schedule and quantity of chemical usage;

15. A description of how solids and residue from the settling basins are disposed; and

16. 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.

9VAC25-860-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of 9VAC25-31.

General Permit No.: VAG64

Effective Date: [December 24, 2008]

Expiration Date: [December 23, 2013]

GENERAL PERMIT FOR POTABLE WATER TREATMENT PLANTS

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/operators of potable water treatment plants are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, and Part II - Conditions Applicable To All VPDES Permits, as set forth herein.

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 a potable water treatment plant from outfall(s):

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

EFFLUENT CHARACTERISTICS	EFFLUENT LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Minimum	Maximum	Frequency	Sample Type
Flow (MGD)	NL	NA	NL	1/ Month ⁽⁴⁾	Estimate
pH (SU)	NA	6.0 ⁽¹⁾	9 ⁽¹⁾	1/ Month ⁽⁴⁾	Grab

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Total Suspended Solids (mg/l)	<u>30</u>	<u>NA</u>	<u>60</u>	<u>1/ Month⁽⁴⁾</u>	<u>5G/8HC⁽²⁾</u>
Total Residual Chlorine ⁽³⁾ (mg/l)	<u>0.011</u>	<u>NA</u>	<u>0.011</u>	<u>1/ Month⁽⁴⁾</u>	<u>Grab</u>

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⁾5G/8HC - Eight-hour composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected. Samples shall be comprised of wastewater discharged during all phases of wastewater generation, including back wash, etc.

⁽³⁾ Total residual chlorine limit shall only be applicable to facilities discharging to surface waters that use chlorine in the treatment process.

⁽⁴⁾Monitoring frequency shall be reduced to 1/quarter upon written notification from the DEQ regional office. Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October and January. Reference special condition no. 4.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

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 a reverse osmosis potable water treatment plant from outfall(s):

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

<u>EFFLUENT CHARACTERISTICS</u>	<u>EFFLUENT LIMITATIONS</u>			<u>MONITORING REQUIREMENTS</u>	
	<u>Monthly Average</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Frequency</u>	<u>Sample Type</u>
<u>Flow (MGD)</u>	<u>NL</u>	<u>NA</u>	<u>NL</u>	<u>1/ Month⁽³⁾</u>	<u>Estimate</u>
<u>pH (SU)</u>	<u>NA</u>	<u>6.0⁽¹⁾</u>	<u>9.0⁽¹⁾</u>	<u>1/ Month⁽³⁾</u>	<u>Grab</u>
<u>Total Dissolved Solids (mg/l)</u>	<u>NA</u>	<u>NA</u>	<u>[800 NL]</u>	<u>1/ Month⁽³⁾</u>	<u>5G/8HC⁽²⁾</u>
<u>Dissolved Oxygen (mg/l)</u>	<u>NA</u>	<u>4.0⁽¹⁾</u>	<u>[9.011 NA]</u>	<u>1/ Month⁽³⁾</u>	<u>Grab</u>

NL - No limitation, monitoring requirement only

NA - Not applicable

⁽¹⁾ Where the Water Quality Standards (9 VAC 25-260) establish alternate standards for pH and dissolved oxygen in waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

⁽²⁾5G/8HC - Eight-hour composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected. Samples shall be comprised of wastewater discharged during all phases of wastewater generation, including back wash, etc.

⁽³⁾Monitoring frequencies shall be reduced to 1/quarter upon written notification from the DEQ regional office.

Reports of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October and January. Reference special condition no. 4.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. Special conditions.

1. Inspection of the effluent, and maintenance of the wastewater treatment facility, shall be performed daily. Documentation of the inspection and maintenance shall be recorded in an operational log. This operational log shall be made available for review by the department personnel upon request.

2. No domestic sewage discharges to surface waters are permitted under this general permit.

3. Adding chemicals to the water or waste that may be discharged, other than those listed on the owner's accepted registration statement, is prohibited. Prior approval shall be obtained from Department of Environmental Quality before any changes are made to the chemical(s), in order to assure protection of water quality and beneficial uses of the waters receiving the discharge.

4. Monitoring frequency shall be 1/month unless a written request is sent to the appropriate regional office to reduce monitoring to 1/quarter. Upon written notification from DEQ regional office, monitoring frequency shall be reduced to 1/quarter. Should the permittee be issued a warning letter related to violation of effluent limitations, a notice of violation, or be subject of an active enforcement action, monitoring frequency shall revert to 1/month upon issuance of the letter of notice of initiation of the enforcement action, and remain in effect until the permit's expiration date.

5. The permittee shall comply with the following solids management plan that includes:

- a. A prohibition on the discharge of floating solids or visible foam in other than trace amounts.
- b. A requirement to clean settling basins frequently in order to achieve effective treatment.
- c. A requirement that all solids shall be handled, stored and disposed of so as to prevent a discharge to state waters.

6. If the discharge is into a municipal separate storm sewer, the permittee is required to notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit, and provide the following information: the name of the facility, a contact person and phone number, and the location of the discharge.

7. The permittee shall notify the department as soon as he 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;
- (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;
- (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.

8. If a DEQ-approved ground water monitoring plan was submitted with the registrations statement the permittee shall continue sampling and reporting in accordance with the plan. The approved plan shall be an enforceable part of this permit.

9. Compliance reporting under Part I A.

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

<u>Effluent Characteristic</u>	<u>Quantification Level</u>
<u>Chlorine</u>	<u>0.10 mg/l</u>
<u>TSS</u>	<u>1.0 mg/l</u>

b. Reporting.

(1) Monthly average. Compliance with the monthly average limitations and/or reporting requirements for the parameters listed in subdivision 9 a shall be determined as follows: all concentration data below the QL listed above shall be treated as zero. All concentration data equal to or above the QL listed in subdivision 9 a shall be treated as it is reported. An arithmetic average shall be calculated using all reported data for the month, including the defined zeros. This arithmetic average shall be reported on the Discharge Monitoring Report (DMR) as calculated. If all data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

(2) Daily maximum. Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in subdivision 9 a above shall be determined as follows: all concentration data below the QL listed in subdivision 9 a above shall be treated as zero. All concentration data equal to or above the QL shall be treated as reported. An arithmetic average shall be calculated using all reported data, including the defined zeros, collected within each day during the reporting month. The maximum value of these daily averages thus determined shall be reported on the DMR as the Daily Maximum. If all data are below the QL, then the average shall be reported as "<QL." If reporting for quantity is required on the DMR and the calculated

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concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration.

c. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision 9 a. Otherwise, the numerical value shall be reported.

d. The permittee shall report at least the same number of significant digits as the permit limit for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

10. Operation and Maintenance Manual Requirement.

a. The permittee shall develop an Operation and Maintenance (O & M) Manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of this permit. The manual shall be submitted to the DEQ regional office for approval within 90 days of the date of coverage under the general permit or completion of construction. The permittee shall operate the treatment works in accordance with the approved O & M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

(1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;

(2) Discussion of best management practices, if applicable;

(3) Treatment system design, treatment system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory and record keeping;

(4) A plan for the management and/or disposal of waste solids and residues; and

(5) Procedures for measuring and recording the duration and volume of treated wastewater discharged.

Any changes in the practices and procedures followed by the permittee shall be documented and submitted for staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of the permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

b. If an approved O & M Manual is already on file with DEQ, the permittee shall review the existing Operations and Maintenance (O & M) Manual and notify the DEQ regional office in writing within 90 days of the date of coverage under the general permit whether it is still

accurate and complete. If the O & M Manual is no longer accurate and complete, a revised O & M Manual shall be submitted for approval to the DEQ regional office within 90 days of the date of coverage under the general permit or with the above required notification. The permittee will maintain an accurate, approved operation and maintenance manual for the treatment works. This manual shall detail the practices and procedures that will be followed to ensure compliance with the requirements of the permit. The permittee shall operate the treatment works accordance with the approved O&M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

(1) Techniques to be employed in the collection, preservation, and analysis of effluent samples;

(2) Discussion of best management practices, if applicable;

(3) Treatment works design, treatment works operation, routine preventative maintenance of units within the treatment system, critical spare parts inventory and record keeping;

(4) A plan for the management and/or disposal of waste solids and residues; and

(5) Procedures for measuring and recording the duration and volume of treated wastewater discharged.

Any changes in the practices and procedures followed by the permittee shall be documented and submitted for staff approval within 90 days of the effective date of the changes. Upon approval of the submitted manual changes, the revised manual becomes an enforceable part of the permit. Noncompliance with the O & M Manual shall be deemed a violation of the permit.

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 insure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) 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 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.
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 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 that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating 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 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 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.

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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, 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 affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to 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 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 that shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and
- b. Any upset that 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 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: The immediate (within 24 hours) reports required in Parts II G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

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 Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act 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 that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; 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 application 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 that 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 mean: (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- 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 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 application 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. Reports, etc. 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 Parts 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 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."

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 termination, revocation and reissuance, or modification; or denial of a permit 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 90 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.

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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 §§ 62.1-44.34:14 through 62.1-44.34:23 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) 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 that 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 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. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which 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 Parts 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 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 above 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 cause(s) 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 preceding 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, 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.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:
 - a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
 - 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
 - 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. R07-12; Filed November 3, 2008, 3:12 p.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Proposed Regulation

Title of Regulation: 12VAC5-391. Regulations for the Licensure of Hospice (amending 12VAC5-391-10, 12VAC5-391-120, 12VAC5-391-150, 12VAC5-391-160, 12VAC5-391-180, 12VAC5-391-300, 12VAC5-391-440, 12VAC5-391-450, 12VAC5-391-460, 12VAC5-391-480, 12VAC5-391-500; adding 12VAC5-391-395, 12VAC5-391-445, 12VAC5-391-446, 12VAC5-391-485, 12VAC5-391-495, 12VAC5-391-510).

Statutory Authority: §§ 32.1-12 and 32.1-162.5 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on January 23, 2009.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-5100, or email carrie.eddy@vdh.virginia.gov.

Basis: Section 32.1-12 of the Code of Virginia authorizes the board to make, adopt, and promulgate regulations and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia and other laws of the Commonwealth administered by it, the commissioner or the department.

The regulation is promulgated under the authority of § 32.1-162.5 of the Code of Virginia, which grants the Board of Health the legal authority "to prescribe such regulation governing the activities and services provided by hospices as may be necessary to protect the public health, safety and welfare." The passage of the 2007 Acts of Assembly requires that 12VAC5-391 be subsequently amended.

Purpose: This action establishes standards for those hospice providers seeking to establish dedicated board and care facilities for diagnosed terminally ill consumers receiving hospice care, but who can no longer remain in their own

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homes. The proposed regulations address patient care and safety, physical plant, maintenance and housekeeping, and emergency preparedness. The proposed amendments also rectify some omissions in the 2005 revised regulation. The amendments are intended to protect the health and safety of the patient receiving care in a hospice facility while allowing providers to be more responsive to the needs of patients.

Substance: The department has developed facility regulatory standards replicating the patient safety and physical plant standards under which hospice facilities operated prior to the enactment of Chapter 397 of the 2007 Acts of Assembly. Such facilities were dually licensed as an assisted living facility, a nursing facility or as a hospital and subject to the physical plant, safety, and maintenance and housekeeping standards as contained in the proposed amendments. The department expanded the existing hospice facility standards established in 2005 as part of the comprehensive revision of Regulations for the Licensure of Hospices. At that time, the department promulgated only those facility standards deemed essential to ensure basic patient care. The department relied on national standards of care, the hospice facility regulations of other states, as well as Virginia's other facility licensure standards when developing the proposed amendments.

Issues: A segment of Virginia's hospice community has endeavored to establish identifiable hospice facilities for some years. Until the enactment of Chapter 397 of the 2007 Acts of Assembly, those efforts proved unsuccessful because providers felt that dual licensure as an assisted living facility, nursing facility or hospital, as required, was overly burdensome and that the facility licensure regulations were not sufficiently flexible to implement services reflecting the hospice philosophy of care.

The 2005 comprehensive revision to the hospice licensure regulations included facility specific regulations, one of which required a registered nurse on duty on all shifts. Some hospice providers objected to this requirement. The department knew that a registered nurse on all shifts met with the hospice facility licensure provision in other states, as well as with federal hospice facility regulation. The department conducted a year-long pilot study to gather data to assess the impact of this requirement. At the end of the study, it was mutually agreed that appropriate care could be provided without an RN on duty if an RN was on-call within 20 minutes. However, the department learned there were still objections to the proposed staffing requirements. Some facility providers, in fact, advocated for no RN staffing in the dedicated hospice facilities. The department believes that these objections are primarily based on costs. Hospice patient care advocates do not consider costs a legitimate reason for opposing the registered nurse on duty criteria. Advocates cite the complexities of terminal illnesses, such as Alzheimer's Disease, and the potential for medication errors and adverse drug reactions as sufficient cause to require a registered nurse on duty on all shifts. The department believes that the

agreed-upon exception to the RN requirement for those facilities with six beds or less appropriately and adequately addresses the concerns of both parties.

No particular locality is affected more than another by this regulation. Promulgation of these amendments to 12VAC5-391 create no known advantages or disadvantages to the agency, the Commonwealth, or the hospice community. Every effort has been made to ensure the regulation protects the health and safety of patient receiving care in a hospice facility while allowing providers to be more responsive to the needs of their patients. Failure to implement the regulation will not negatively impact the overall provision of hospice care in Virginia.

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

Summary of the Proposed Amendments to Regulation. The Board of Health proposes to establish licensure requirements for providers of hospice services in a facility.

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

Estimated Economic Impact. The proposed regulations will establish licensure requirements under the authority of the Board of Health for the providers of hospice services in a facility. Hospice programs provide palliative care to terminally ill patients. The main purpose of a hospice program is to provide physical, psychological, and spiritual comfort during the final stages of a terminal illness and during dying and bereavement.

Approximately 100 hospice providers are licensed by the Virginia Department of Health (VDH). Most of these hospice providers provide services at the home of their patients and are already regulated by existing regulations. However, three hospice providers have been providing services at a designated facility in addition to serving most of their patients in their homes. Pursuant to 2003 Acts of Assembly, HB1822, the providers that offer services at a hospice facility were licensed under the Department of Social Services (DSS) regulations as an Assisted Living Facility. The 2003 legislation required a hospice provider wishing to provide services at a facility be licensed as an Assisted Living Facility under DSS regulations. Though not required, all of the facilities provide hospice services at home to most of their patients. Thus, if a facility wanted to provide hospice services at a facility they were subject to dual licensure by two different regulatory entities.

The 2007 Acts of Assembly, HB1965, establishes that providers wishing to provide services at a facility be licensed by VDH instead of DSS. Consequently, the Board of Health proposes regulations to establish rules for hospice providers wishing to provide services at a facility.

Because the providers of hospice services at a facility are already subject to DSS regulations, the net economic impact of the proposed regulations stems from the differences between existing DSS regulations and the proposed VDH regulations.

On one hand proposed regulations may increase compliance costs by adding that a hospice facility must have a registered nurse available at the facility or one must be available to respond to emergency calls within twenty minutes. This particular requirement appears to have created some controversy among the regulated facilities. Whether this proposed requirement is necessary or not is a medical question. As the Commonwealth's regulatory medical authority, VDH believes the presence or accessibility of a registered nurse is essential for a hospice provider to provide services at a facility to ensure the health, safety, and welfare of the patients served. VDH also points out that hospice providers serving patients only at their homes are already required to comply with this requirement. Considering the patients at a facility are under the direct care of a hospice provider, it appears that they should be able to access a level of care at least as high as the level of care afforded to the patients served at their homes.

The economic effect of this proposed change is the cost difference between having a licensed practical nurse (LPN) and a registered nurse on staff. According to VDH, mean hourly wage rate for an RN is \$27.89 and for a LPN is \$17.73. If the facility pays for an RN for 24 hours everyday and 365 days in a year to comply with this requirement, the added compliance costs would be \$89,002 annually. However, this estimate should be considered as the upper ceiling for the added costs because some facilities may be able to comply with this requirement by utilizing their existing RNs for a much lower compensation.

On the other hand, the proposed regulations may reduce compliance costs because a number of proposed rules are less stringent than the rules the facilities must have complied with under the DSS regulations. Among the less stringent requirements are no longer requiring licensure of the administrator, annual administrative training, Tuberculosis testing, and medication administration reports and manuals. These less stringent requirements have the potential to create some savings, offsetting some of the added compliance costs.

Businesses and Entities Affected. The proposed regulations apply to hospice providers providing services at a facility. Currently, there are three such facilities serving four or less patients each.

Localities Particularly Affected. The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment. The proposed regulations are expected to increase the demand for RN hours but the likely size of the actual increase cannot be determined.

Effects on the Use and Value of Private Property. The proposed regulations may reduce the asset value of hospice providers providing services at a facility if the additional compliance cost of complying with the RN staffing requirement is not fully offset by the cost savings from less stringent requirements. However, the likely size of net costs cannot be determined.

Small Businesses: Costs and Other Effects. All three hospice facilities affected are considered to be small businesses. Thus, the proposed regulations are estimated to increase the compliance costs as a result of the proposed RN staffing requirement and estimated to decrease the compliance costs as result of the proposed less stringent requirements. However, the likely size of net costs is not known.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Given VDH's determination that the RN services are medically necessary to ensure health, safety, and welfare of patients served at a hospice facility, there is no other alternative method that minimizes potential adverse impact on affected small businesses.

Real Estate Development Costs. The proposed regulations are not anticipated to create any real estate development costs.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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

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Summary:

Chapter 391 of the 2007 Acts of Assembly places oversight of hospice facilities with the Department of Health and establishes that continuity of hospice services provided in a patient's home also be provided in a dedicated facility. This change in law necessitates amending the current regulation by expanding the standards addressing patient care and safety in hospice facilities. The proposed amendments also address omissions in the regulation when it was revised in 2005.

The proposed amendments (i) clarify definitions pertaining to hospice facility and inpatient services; (ii) provide clarification between a hospice facility and inpatient services in a hospital or nursing facility; (iii) require notifying the Department of Health of the relocation of a hospice facility; (iv) add provisions for handling medical errors and drug reactions; (v) require compliance with state and local codes, zoning and building ordinances and the Uniform Statewide Building Code; (vi) prohibit a hospice facility from being used for any purpose other than the provision of hospice services; (vii) require that a set of as-built plans be retained; (viii) establish additional physical plant requirements for operating a hospice facility; (ix) establish necessary hospice facility financial controls and requirements for handling patient funds; (x) require 24-hour nursing services including trained and supervised staff to meet the total needs of the hospice patients; (xi) allow facilities with six or fewer beds to have a single licensed nurse as long as patient needs are met; (xii) provide for a 20-minute response time if a registered nurse is not present at the facility; and (xiii) make changes to provide consistency with other facility-type regulations.

Part I

Definitions and General Information

12VAC5-391-10. Definitions.

The following words and terms when used in these regulations shall have the following meaning unless the context clearly indicates otherwise.

"Activities of daily living" means bathing, dressing, toileting, transferring, bowel control, bladder control and eating/feeding.

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient by (i) a practitioner or by his authorized agent and under his supervision or (ii) the patient at the direction and in the presence of the practitioner as defined in § 54.1-3401 of the Code of Virginia.

"Administrator" means a person designated, in writing, by the governing body as having the necessary authority for the day-to-day management of the hospice program. The administrator must be a member of the hospice staff. The

administrator, director of nursing, or another clinical director may be the same individual if that individual is dually qualified.

"Attending physician" means a physician licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, or licensed in an adjacent state and identified by the patient as having the primary responsibility in determining the delivery of the patient's medical care. The responsibilities of physicians contained in this chapter may be implemented by nurse practitioners or physician assistants as assigned by the supervising physician and within the parameters of professional licensing.

"Available at all times during operating hours" means an individual is available on the premises or by telecommunications.

"Barrier crimes" means certain offenses specified in § 32.1-162.9:1 of the Code of Virginia that automatically bar an individual convicted of those offenses from employment with a hospice program.

"Bereavement service" means counseling and support offered to the patient's family after the patient's death.

"Commissioner" means the State Health Commissioner.

"Coordinated program" means a continuum of palliative and supportive care provided to a terminally ill patient and his family, 24 hours a day, seven days a week.

"Core services" means those services that must be provided by a hospice program. Such services are: (i) nursing services, (ii) physician services, (iii) counseling services, and (iv) medical social services.

"Counseling services" means the provision of bereavement services, dietary services, spiritual and any other counseling services for the patient and family while the person is enrolled in the program.

"Criminal record report" means the statement issued by the Central Criminal Records Exchange, Virginia Department of State Police.

~~"Dedicated hospice facility" means an institution, place, or building providing room, board, and appropriate patient care 24 hours a day, seven days a week to individuals diagnosed with a terminal illness requiring such care pursuant to a physician's orders.~~

"Dispense" means to deliver a drug to the ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery as defined in § 54.1-3401 of the Code of Virginia.

"Employee" means an individual who is appropriately trained and performs a specific job function for the hospice

program on a full or part-time basis with or without financial compensation.

"Governing body" means the individual, group or governmental agency that has legal responsibility and authority over the operation of the hospice program.

"Home attendant" means a nonlicensed individual performing personal care and environmental services, under the supervision of the appropriate health professional, to a patient in the patient's residence. Home attendants are also known as certified nursing assistants or CNAs, home care aides, home health aides, and personal care aides.

"Hospice" means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of an identifiable hospice administration providing palliative and supportive medical and other health services to terminally ill patients and their families. A hospice utilizes a medically directed interdisciplinary team. A hospice program of care provides care to meet the physical, psychological, social, spiritual and other special needs that are experienced during the final stages of illness, and during dying and bereavement. Hospice care shall be available 24 hours a day, seven days a week.

"Hospice facility" means an institution, place or building as defined in § 32.1-162.1 of the Code of Virginia.

~~"Inpatient" means services provided to a hospice patient who is admitted to a hospital or nursing facility on a short-term basis for the purpose of curative care unrelated to the diagnosed terminal illness. Inpatient does not mean services provided in a dedicated hospice facility~~ the provision of services, such as food, laundry, housekeeping and staff to provide health or health-related services, including respite and symptom management, to hospice patients, whether in a hospital, nursing facility, or hospice facility.

"Interdisciplinary group" means the group responsible for assessing the health care and special needs of the patient and the patient's family. Providers of special services, such as mental health, pharmacy, and any other appropriate associated health services may also be included on the team as the needs of the patient dictate. The interdisciplinary group is often referred to as the IDG.

"Licensee" means a licensed hospice program provider.

"Medical director" means a physician currently licensed in Virginia, according to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia, and responsible for the medical direction of the hospice program.

"Medical record" means a continuous and accurate documented account of services provided to a patient, including the prescription and delivery of the treatment or care.

"Medication error" means one or more violations of the five principles of medication administration: the correct drug to the right patient at the prescribed time in the prescribed dose via the prescribed route.

"Nursing services" means the patient care performed or supervised by a registered nurse according to a plan of care.

"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.

"Operator" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity responsible for the day-to-day administrative management and operation of the hospice.

"Palliative care" means treatment directed at controlling pain, relieving other symptoms, and focusing on the special needs of the patient and family as they experience the stress of the dying process. Palliative care means treatment to enhance comfort and improve the quality of a patient's life during the last phase of his life.

"Patient" means a diagnosed terminally ill individual, with an anticipated life expectancy of six months or less, who, alone or in conjunction with designated family members or representatives, has voluntarily requested admission and been accepted into a licensed hospice program.

"Patient's family" means the hospice patient's immediate kin, including spouse, brother, sister, child or parent. Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the patient's family by mutual agreement among the patient, the relation or individual.

"Patient's residence" means the place where the individual or patient makes his home.

"Person" means any individual, partnership, association, trust, corporation, municipality, county, local government agency or any other legal or commercial entity that operates a hospice.

"Plan of care" means a written plan of services developed by the interdisciplinary group to maximize patient comfort by symptom control to meet the physical, psychosocial, spiritual and other special needs that are experienced during the final stages of illness, during dying, and bereavement.

"Primary caregiver" means an individual that, through mutual agreement with the patient and the hospice program, assumes responsibility for the patient's care.

"Progress note" means a documented statement contained in a patient's medical record, dated and signed by the person delivering the care, treatment or service, describing the treatment or services delivered and the effect of the care, treatment or services on the patient.

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"Quality improvement" means ongoing activities designed to objectively and systematically evaluate the quality of care and services, pursue opportunities to improve care and services, and resolve identified problems. Quality improvement is an approach to the ongoing study and improvement of the processes of providing services to meet the needs of patients and their families.

"Staff" means an employee who receives financial compensation.

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular face-to-face guidance and instruction.

"Terminally ill" means a medical prognosis that life expectancy is six months or less if the illness runs its usual course.

"Volunteer" means an employee who receives no financial compensation.

12VAC5-391-120. ~~Dedicated hospice~~ Hospice facilities.

A. Providers seeking to operate a ~~dedicated~~ hospice facility shall comply with the appropriate facility licensing regulation as follows:

1. ~~Up to five patient beds, facilities shall be licensed as:~~ Facilities with 16 or fewer beds shall be licensed as a hospice facility pursuant to this chapter. Such facilities with six or more beds shall obtain a Certificate of Use and Occupancy with a Use Group designation of I-2; or

a. ~~An assisted living facility pursuant to 22VAC40-71;~~

b. ~~A hospital pursuant to 12VAC5-410; or~~

e. ~~A nursing facility pursuant to 12VAC5-371; or~~

2. ~~Six or more patient beds, facilities shall be licensed as:~~ Facilities with more than 16 beds shall be licensed as a hospital pursuant to 12VAC5-410 or as a nursing facility pursuant to 12VAC5-371. Such facilities shall obtain the applicable Certificate of Public Need prior to the development or construction of the facility.

a. ~~An assisted living facility, pursuant to 22VAC40-71 with a classified Use Group of I-2;~~

b. ~~A hospital pursuant to 12VAC5-410; or~~

e. ~~A nursing facility pursuant to 12VAC5-371.~~

~~Facilities to be licensed as a hospital or a nursing facility shall obtain the applicable Certificate of Public Need (COPN).~~

B. Only patients diagnosed terminally ill shall be admitted to a ~~dedicated~~ hospice facility. The facility shall admit only those patients whose needs can be met by the accommodations and services provided by the facility.

C. ~~To the maximum extent possible, care shall be provided in the patient's home.~~ Admission to a ~~dedicated~~ hospice facility shall be the decision of the patient in consultation with the patient's physician. No patient shall be admitted to a hospice facility at the discretion of, or for the convenience of, the hospice provider.

D. No ~~dedicated~~ hospice facility shall receive for care, treatment, or services patients in excess of ~~the its~~ licensed bed capacity. ~~However, facilities licensed as a nursing facility may provide temporary shelter for evacuees displaced due to a disaster. In those cases, the facility may exceed the licensed capacity for the duration of that emergency only provided the health, safety, and well being of all patients is not compromised and the OLC is notified.~~

E. All hospice providers operating a hospice facility shall provide, to the extent possible, respite and symptom management services for their patients needing such services.

~~E. F.~~ No ~~dedicated~~ hospice facility provider shall add additional patient beds or renovate facility space without first notifying the OLC ~~and the applicable facility licensing authority.~~ OLC notifications must be in writing to the director of the OLC.

~~F. G.~~ The OLC will not accept any requests for variances to this section.

12VAC5-391-150. Return of a license.

A. The circumstances under which a license must be returned include, ~~but are not limited to:~~

(i) ~~change 1. A change~~ in ownership or operator;₂

(ii) ~~change in hospice 2. A change in~~ program name;₂

(iii) ~~relocation 3. The relocation~~ of the administrative office;₂

(iv) ~~discontinuation 4. The discontinuation~~ of any core services;₂ and

(v) ~~establishment of a dedicated 5. The relocation of a~~ hospice facility.

B. The licensee shall notify its patients and the OLC in writing 30 days prior to discontinuing any services.

C. If the hospice program is no longer operational, or the license is revoked or suspended, the license shall be returned to the OLC within five working days. The licensee is responsible for notifying its patients and the OLC where all medical records will be located.

Part II
Administrative Services

12VAC5-391-160. Management and administration.

A. No person shall establish or operate a hospice program or a hospice facility, as defined in § 32.1-162.1 of the Code of Virginia, without having obtained a license.

B. The hospice program must comply with:

1. This chapter (12VAC5-391);
2. Other applicable federal, state or local laws and regulations; and
3. The hospice program's own policies and procedures.

When applicable regulations are similar, the more stringent regulation shall take precedence.

C. The hospice program shall submit or make available reports and information necessary to establish compliance with this chapter and applicable law.

D. The hospice program shall permit representatives from the OLC to conduct inspections to:

1. Verify application information;
2. Determine compliance with this chapter;
3. Review necessary records and documents; and
4. Investigate complaints.

E. The hospice program shall notify the OLC 30 working days in advance of changes effecting the hospice program, including the:

1. Location of the administrative office or mailing address of the hospice program;
2. Ownership or operator;
3. Services provided;
4. Administrator;
5. Hospice program name;
6. Establishment or relocation of a ~~dedicated~~ hospice facility; and
7. Closure of the hospice program.

F. The current license from the department shall be posted for public inspection.

G. Service providers or individuals under contract must comply with the hospice program's policies and this chapter, as appropriate.

H. The hospice program shall not use any advertising that contains false, misleading or deceptive statements or claims, or false or misleading disclosures of fees and payment for services.

I. The hospice program shall have regular posted business hours and be fully operational during business hours. Patient care services shall be available 24 hours a day, seven days a week. This does not mean that a hospice program must accept new clients on an emergency basis during nonbusiness hours.

J. The hospice program shall accept a patient only when the hospice program can adequately meet that patient's needs.

K. The hospice program must have an emergency preparedness plan in case of inclement weather or natural disaster to include contacting and providing essential care to patients, coordinating with community agencies to assist as needed, and maintaining current information on patients who would require specialized assistance.

L. The hospice program shall encourage and facilitate the availability of flu shots for its staff and patients.

12VAC5-391-180. Administrator.

A. The governing body shall appoint as administrator an individual who has evidence of at least one year of training and experience in direct health care service delivery with at least one year, within the last five years, of supervisory or administration management experience in hospice care or a related health care delivery system.

B. The administrator shall have operational knowledge of Virginia's hospice laws and regulations and the interrelationship between state licensure and national certification or accrediting organizations such as the Centers for Medicare and Medicaid Services and The Joint Commission (formerly the Joint Commission on Accreditation and Healthcare Organizations).

~~B. C.~~ The administrator shall be responsible for the day-to-day management of the hospice program, including but not limited to:

1. Organizing and supervising the administrative functions of the hospice program;
2. Maintaining an ~~on-going~~ ongoing liaison with the governing body, the professional personnel and staff;
3. Employing qualified personnel and ensuring adequate employee orientation, training, education and evaluation;
4. Ensuring the accuracy of public information materials and activities;
5. Implementing an effective budgeting and accounting system;
6. Maintaining compliance with applicable laws and regulations and implementing corrective action in response to reports of hospice program committees and regulatory agencies;
7. Arranging and negotiating services provided through contractual agreement; and

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8. Implementing the policies and procedures approved by the governing body.

~~C. An individual who meets the qualifications of subsection A of this section shall be~~ D. The individual designated in writing to perform the duties of the administrator when the administrator is absent from the hospice program shall be able to perform those duties of the administrator as identified in subsection C of this section.

~~Hospice programs shall have one year from the effective date of this chapter to ensure that the individuals currently designated meet the qualifications of subsection A of this section.~~

~~D.~~ E. The administrator or alternate shall be available at all times during operating hours and for emergency situations.

Part III Hospice Program Services

Article 1 Hospice Services

12VAC5-391-300. Hospice services.

A. Each hospice shall provide a coordinated program of services encompassing the hospice philosophy that:

1. The unit of care consists of the patient, the primary caregiver, and the patient's family;
2. Emphasizes in-home care;
3. A designated interdisciplinary group supervises the patient's care;
4. A patient's symptoms and physical pain will be appropriately assessed and managed;
5. Services are available 24 hours a day, 7 days a week;
6. Inpatient care is provided in an atmosphere as home-like as practical;
7. Bereavement services are available to the family after the death of the patient; and
8. Trained volunteers are utilized to perform specific job functions in the hospice service delivery system.

B. Specific services provided according to the plan of care shall include:

1. Nursing services;
2. Counseling services;
3. Medical social services;
4. Physician services;
5. Physical therapy, occupational therapy, speech-language pathology;
6. Home attendant services;

7. Short-term inpatient care; and

8. Medical appliances and supplies, including drugs and biologicals, relevant to the patient's terminal illness.

~~C. Inpatient services shall be provided in a licensed hospital or nursing facility.~~

~~D.~~ C. There shall be a written transfer agreement with an inpatient facility for one or more hospitals sufficiently close to the hospice's service area to permit the transfer of patients if medical complications arise. Such agreement shall include, but is not limited to, interagency communication processes and coordination of the patient's plan of care, and shall clearly identify the services to be provided by ~~the facility and the hospice~~ each entity while the patient is at the ~~inpatient facility~~ hospital.

D. Provisions shall be made to obtain appropriate transportation in cases of emergency.

E. All prescription drugs shall be prescribed and properly dispensed to patients according to the provisions of Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the Virginia Board of Pharmacy, except for the prescription drugs authorized by § 54.1-3408 of the Drug Control Act, such as epinephrine for emergency administration, normal saline and heparin flushed for the maintenance of IV lines, and adult immunizations, which may be given by a nurse pursuant to established protocol.

12VAC5-391-395. Medication errors and drug reactions.

A. In the event of a medication error or adverse drug reaction, employees shall promptly notify the patient's physician, the medical director, the nurse and the patient's family and shall take action as directed.

B. Actions taken shall be documented in the patient's record.

C. The hospice facility shall review all medication errors at least quarterly as part of its quality assurance program.

Part IV ~~Dedicated~~ Hospice Facilities

12VAC5-391-440. General facility requirements.

~~A. In addition to the facility licensure requirements in 12VAC5-391-120, providers of dedicated hospice facilities shall maintain compliance with the standards of this section.~~

~~B.~~ A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a ~~dedicated~~ hospice facility shall comply with applicable state and federal laws and regulations conform to state and local codes, zoning and building ordinances and the Uniform Statewide Building Code.

In addition, hospice facilities shall be designed and constructed according to section 4.2 of Part 4 of the 2006 Guidelines for Design and Construction of Health Care Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence.

B. All buildings shall be inspected and approved as required by the appropriate regional state fire marshal's office or building and fire regulatory official. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.

C. The facility shall provide 24 hour nursing services sufficient to meet the total nursing needs according to individual plans of care, including treatments, medication, and diet as prescribed, of the patients and shall keep patients comfortable, clean, well groomed, and protected from accident, injury, and infection.

D. C. The facility must have space for private patient family visiting and accommodations for family members after a patient's death. Patients shall be allowed to receive guests, including small children, at any hour.

E. D. Patient rooms shall not exceed two beds per room and must be at grade level or above, enclosed by four ceiling-high walls, and able to house one or more patients. Each room shall be equipped for adequate nursing care, the comfort and privacy of patients, and with a device for calling the staff member on duty.

F. E. Designated guest rooms for family members or patient guests and beds for use by employees of the facility shall not be included in the bed capacity of a hospice facility provided such beds and locations are identified and used exclusively by staff, volunteers or patient guests.

Employees shall not utilize patient rooms nor shall bedrooms for employees be used by patients.

G. F. Waste storage shall be located in a separate area outside or easily accessible to the outside for direct pickup or disposal. The use of an incinerator shall require permitting from the nearest regional permitting office for the Department of Environmental Quality.

H. The facility shall assist in obtaining transportation, when necessary, to obtain medical and psychiatric care, routine and emergency dental care, diagnostic or other services outside the facility.

I. G. The facility shall provide or arrange for under written agreement, laboratory, x-ray, and other diagnostic services, as ordered by the patient's physician.

J. H. There shall be a plan implemented to assure the continuation of essential patient support services in case of power outages, water shortage, or in the event of the absence

from work of any portion of the workforce resulting from inclement weather or other causes.

I. No part of a hospice facility may be rented, leased or used for any purpose other than the provision of hospice care at the facility.

J. The hospice facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

12VAC5-391-445. Additional building regulations and standards.

A. Water shall be obtained from an approved water supply system. Hospice facilities shall be connected to sewage systems approved by the Department of Health or the Department of Environmental Quality.

B. Each hospice facility shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations.

C. The hospice facility's food services shall comply with 12VAC5-421.

D. A hospice facility's pharmacy services shall comply with Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia and 18VAC110-20.

12VAC5-391-446. Financial controls and patient funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles.

B. Hospice facilities choosing to handle patient funds shall, upon receipt of a patient's written delegation of this responsibility:

1. Give the patient at least a quarterly accounting of financial transactions made on his behalf and shall permit the patient access to the records of financial transactions made on his behalf at least once a month;

2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the facility; and

3. Provide for separate accounting of patient funds.

C. In the event the hospice facility is sold, the provider shall verify that all patient funds have been transferred or returned to the patient and shall obtain a signed receipt from the new owner of all patient funds transferred. Upon receipt, the new owner shall provide an accounting of resident funds transferred to the respective patient.

D. When a patient with funds deposited with the facility leaves or is discharged, the facility shall give a final accounting, within 30 days, of those funds to the patient or the individual administering the patient's estate and, if appropriate, refund any money due.

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12VAC5-391-450. Required staffing.

~~A. Each shift must include at least one registered nurse providing direct patient care. There shall be an individual, designated in writing, responsible for the day-to-day management and operation of the hospice facility. Such individual shall report directly to the program administrator and shall be qualified to perform the duties identified in 12VAC5-391-180 C.~~

~~B. Minimum staffing for a hospice facility with five patient beds shall consist of one registered nurse and one additional direct care staff member on duty at all times. Staffing for hospice facilities with six or more beds shall be based on the assessed needs of the patients in the facility. The facility shall provide 24-hour nursing services sufficient to meet the total nursing needs of its patients according to individual plans of care, including treatments, medication, and diet as prescribed, and shall keep patients comfortable, clean, well-groomed, and protected from accident, injury and infection.~~

~~C. The hospice facility shall have a sufficient number of trained and supervised staff to meet the needs of each patient. At least two staff, one of which is a licensed nurse, must be on duty when patients are present. However, facilities with six or fewer beds may staff with a single licensed nurse provided compliance with subsection B of this section is maintained.~~

~~If the nurse on duty is not a registered nurse, then a registered nurse must be on call and able to respond to emergent calls within 20 minutes.~~

12VAC5-391-460. Pharmacy services.

~~A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products. This may be by arrangement with an off site pharmacy, but must include provisions for 24-hour emergency service. Whether medications and biologicals are obtained from community or institutional pharmacies, the hospice facility is responsible for assuring availability for medications and biologicals, including 24-hour emergency services, for its patients and for ensuring that pharmaceutical services are provided according to accepted professional principles and appropriate federal and state laws.~~

~~B. The ~~dedicated~~ facility shall comply with the Virginia Board of Pharmacy regulations related to pharmacy services in long-term care facilities, i.e., Part XII (18VAC110-20-530 et seq.) of the Virginia Board of Pharmacy Regulations.~~

~~C. Each ~~dedicated~~ hospice facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, medication errors, self-administration and, disposal and accounting of drugs and other pharmacy products.~~

D. Each facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.

The consultant pharmacist shall make regularly scheduled visits, at least ~~monthly~~ quarterly, to the facility for a sufficient number of hours to carry out the function of the agreement.

E. Each prescription container shall be individually labeled by the pharmacist for each patient or provided in an individualized unit dose system.

F. No drug or medication shall be administered to any patient without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.

G. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.

H. Each patient's medication regimen shall be reviewed by a pharmacist licensed in Virginia. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.

I. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.

J. Prescription and nonprescription drugs and medications may be brought into the facility by a patient's family, friend or other person provided:

1. The individual delivering the drugs and medications assures timely delivery, in accordance with the facility's written policies, so that the patient's prescribed treatment plan is not disrupted;
2. Each drug or medication is in an individual container; and
3. Delivery is not allowed directly to an individual patient.

In addition, prescription medications shall be:

4. Obtained from a pharmacy licensed by the state or federal authority; and
5. Securely sealed and labeled by a licensed pharmacist according to 18VAC110-20-330 and 18VAC110-20-340.

12VAC5-391-480. ~~Food~~ Dietary and food service.

A. The facility shall provide dietary services to meet the daily nutritional needs of patients.

~~B. If the facility has patients requiring medically prescribed special diets, the menus for such diets shall be planned by a dietitian qualified according to Chapter 27.1 (§ 54.1-2730 et seq.) of Title 54.1 of the Code of Virginia, or shall be reviewed and approved by a physician. The facility shall provide supervision of the preparation and serving of any special diets. The hospice facility shall employ sufficient~~

assigned food service personnel trained to provide a hygienic dietary service that meets the daily nutritional and special dietary needs of patients, and provides palatable and attractive meals.

C. When meals are catered to a hospice facility, such meals shall be obtained from a food service establishment licensed by the Virginia Department of Health. There shall be a current written contract with the food service establishment pursuant to 12VAC5-391-230.

D. The hospice facility shall contract with a consulting registered dietitian, who meets the qualifications of § 54.1-2731 of the Code of Virginia, to provide guidance to the facility's food service personnel on methods for maintaining the dietary service, planning of nutritionally balanced meals, and assessing the dietary needs of individual patients. The dietitian's duties shall include the following:

1. Developing menus, including therapeutic diets prescribed by a patient's physician;

2. Developing, revising, and annually reviewing dietary policies, procedures and job descriptions;

3. Assisting in planning and conducting regularly scheduled inservice training that includes, but is not limited to:

a. Therapeutic diets;

b. Food preparation requirements; and

c. Principles of sanitation.

4. Visiting patients on a regular basis to discuss nutritional problems, depending upon their needs and level of care, and recommending appropriate solutions.

E. Menus shall meet the dietary allowances of the Food and Nutritional Board of the National Academy of Sciences, as adjusted for age, sex, and activity level.

F. A copy of a diet manual containing acceptable practices and standards for nutrition must be kept current and on file in the food preparation area.

G. Food service facilities shall be located in a designated area and shall include the following rooms or spaces:

1. Kitchen;

2. Dishwashing;

3. Food storage; and

4. Dining room.

H. At least three meals, served at regular intervals, shall be provided daily to each patient, unless contraindicated as documented by the attending physician in the patient's medical record.

I. Special attention shall be given to preparation and prompt serving in order to maintain correct food temperatures for serving.

J. Between meal snacks of nutritional value shall be available upon request to each patient according to their plan of care.

K. Therapeutic diets shall be prepared and served as prescribed by the attending physician.

L. Employees assigned to other duties in the facility and visitors shall not be allowed in the food preparation area during food preparation and patient meal service hours, except in cases of emergency.

M. Weekly menus, including therapeutic diets, substitutes, and copies of menus, as served, shall be retained on file for 12 months.

N. Disposable dinnerware or tableware shall be used only for emergencies, for infection control, as part of special activities, or as indicated in a patient's plan of care.

O. For hospice facilities with 13 or more patient beds:

1. The dietary and food service operation shall meet all applicable sections of 12VAC5-421; and

2. There shall be a food service manager, qualified as allowed in 12VAC5-421-60, responsible for the full-time management and supervision of the dietary service.

12VAC5-391-485. Maintenance and housekeeping.

A. The hospice facility shall be maintained and equipped to provide a functional, sanitary, safe, and comfortable environment.

B. A documented preventive maintenance program shall be established to ensure that equipment is operative and that the interior and exterior of the building or buildings are maintained in good repair and free from hazards and litter.

C. The administrator shall designate an employee responsible for carrying out these functions and for training and supervising housekeeping and maintenance personnel.

D. The heating, ventilation and air conditioning system shall be capable of maintaining temperatures between 70°F and 80°F throughout patient areas.

E. The hospice facility shall have an effective pest control program either by maintenance personnel or by contract with a pest control company.

F. The hospice facility shall provide adequate space, equipment and supplies for any special services to be offered.

G. All furniture shall be kept clean and safe for use.

H. Over bed tables shall be available as needed.

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I. Stretchers and wheelchairs shall be stored out of the path of normal traffic.

J. A sufficient number of wheelchairs and chairs shall be provided for patients whose physical conditions indicate a need for such equipment.

K. Refuse containers shall be emptied and cleaned at frequent intervals.

L. Hazardous cleaning solutions, compounds and substances shall be labeled, stored and kept under lock in a safe place separate from other materials.

12VAC5-391-495. Transportation.

The hospice facility shall assist a patient in obtaining transportation when it is necessary to obtain medical, psychiatric, dental, diagnostic or other services outside the facility.

12VAC5-391-500. Pet care.

A. If the facility chooses to permit pets, then healthy animals that are free of fleas, ticks and intestinal parasites, that have been screened by a veterinarian prior to entering the facility, that have received required inoculations and that represent no apparent threat to the health, safety, and well being of the patients may be permitted provided they are properly cared for and the pet and its housing or bedding are kept clean. The hospice facility shall implement policies regarding pets, whether the pet is visiting or in residence.

B. Pets shall not be allowed near patients with pet allergies or patients choosing not to be disturbed by animals. The hospice facility shall ensure that any patient's rights, preferences, and medical needs are not compromised by the presence of an animal. Pets shall not be allowed in dining and kitchen areas when food is being prepared or served.

C. All pets, whether visiting or in residence, shall be in good health, clean and well-groomed, show no evidence of carrying disease, have a suitable temperament, and pose no significant health or safety risks to patients, staff, volunteers, or visitors.

D. For pets in residences, the facility shall:

1. Disclose to potential and current patients the types of pets and the conditions under which pets are allowed in residence;

2. Maintain documentation of disclosure of pet policies in the patients' records;

3. Ensure that, before living in the facility, the pet's owner provides current documentation that the pet has had all recommended or required immunizations;

4. Ensure that regular pet examinations and immunizations are maintained; and

5. Ensure that resident pets are properly cared for and that the pet and its housing or bedding are kept clean.

12VAC5-391-510. Safety and emergency preparedness.

A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergencies that disrupts the normal course of operations. The plan shall include, but not be limited to:

1. The continuation of essential patient support services in case of power outages, water shortages, or in the event of absences from work of any portion of the workforce resulting from inclement weather or other causes;

2. The preparation of patients for potential or imminent emergencies and disasters;

3. Alerting emergency personnel and sounding alarms;

4. Using, maintaining and operating emergency equipment;

5. Accessing patient emergency medical information;

6. Utilizing community support services;

7. A sheltering plan that addresses, but is not limited to:

a. Sheltering in place as well as off-site relocation arrangements;

b. Implementing evacuation procedures; and

c. A letter of agreement with off-site sheltering locations;

8. A transportation plan including:

a. Agreements with entities for relocating patients;

b. Number and type of vehicles required; and

c. Procedures for providing appropriate medical support and medications during relocation; and

9. A staffing plan for relocated patients, including:

a. The number and type of staff needed to provide appropriate care to relocated patients; and

b. Plans for relocating staff or assuring transportation to the sheltering facility.

B. All staff shall participate in periodic emergency preparedness training.

C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.

D. At least one telephone shall be available in each area to which patients are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

E. In the event of a disaster, fire, medication error, suspicious death, emergency or any other condition that may

jeopardize the health, safety and well-being of patients, the facility shall notify the department of the conditions and status of the patients and the hospice facility as soon as possible, but no later than 24 hours after the incident.

F. The hospice facility shall have a policy on smoking.

DOCUMENTS INCORPORATED BY REFERENCE
(12VAC5-391)

Personal Care Aide Training Curriculum, 2003, Department of Medical Assistance Services.

2006, Guidelines for Design and Construction of Health Care Facilities, The Facility Guidelines Institute, The American Institute of Architects Academy of Architecture for Health, 1-800-242-3837.

VA.R. Doc. No. R08-964; Filed October 30, 2008, 3:05 p.m.



TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 16VAC30-11. Public Participation Guidelines (repealing 16VAC30-11-10, 16VAC30-11-20, 16VAC30-11-30).

16VAC30-12. Public Participation Guidelines (adding 16VAC30-12-10 through 16VAC30-12-110).

Statutory Authority: §§ 2.2-4007.02 and 65.2-201 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Matthew Bryant, Director, Technology Alignment Program, Virginia Workers' Compensation Commission, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-2253, FAX (877) 366-5495, or email matthew.bryant@vwc.state.va.us.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 12

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

16VAC30-12-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Virginia Workers' Compensation Commission. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

16VAC30-12-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Virginia Workers' Compensation Commission, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a

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consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

16VAC30-12-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed

on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

16VAC30-12-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 16VAC30-12-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a re-proposed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

16VAC30-12-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

16VAC30-12-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

16VAC30-12-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

16VAC30-12-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

16VAC30-12-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for

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contemporaneous notice to be provided to participants and the public.

16VAC30-12-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

16VAC30-12-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1459; Filed October 27, 2008, 4:20 p.m.



TITLE 17. LIBRARIES AND CULTURAL RESOURCES

BOARD OF HISTORIC RESOURCES

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **17VAC5-10. Public Participation Guidelines (repealing 17VAC5-10-10 through 17VAC5-10-40).**

17VAC5-11. Public Participation Guidelines (adding 17VAC5-11-10 through 17VAC5-11-110).

Statutory Authority: §§ 2.2-4007.02 and 10.1-2205 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: M. Catherine Slusser, Director, Resource Information Division, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323, FAX (804) 367-2391, or email catherine.slusser@dhr.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

17VAC5-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Historic Resources. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

17VAC5-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Historic Resources, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

17VAC5-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

Regulations

17VAC5-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 17VAC5-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

17VAC5-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

17VAC5-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

17VAC5-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall

determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

17VAC5-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

17VAC5-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

17VAC5-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

17VAC5-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1460; Filed November 4, 2008, 11:49 a.m.

DEPARTMENT OF HISTORIC RESOURCES

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **17VAC10-10. Public Participation Guidelines (repealing 17VAC10-10-10 through 17VAC10-10-40).**

17VAC10-11. Public Participation Guidelines (adding 17VAC10-11-10 through 17VAC10-11-110).

Statutory Authority: §§ 2.2-4007.02 and 10.1-2202 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: M. Catherine Slusser, Deputy Director for Policy and Planning, Department of Historic Resources, 2801 Kensington Ave., Richmond, VA 23221, telephone (804) 367-2323 ext. 104, FAX (804) 367-2391, or email catherine.slusser@dhr.virginia.gov.

Summary:

Regulations

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

17VAC10-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Department of Historic Resources. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

17VAC10-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Department of Historic Resources, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II
Notification of Interested Persons

17VAC10-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

17VAC10-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 17VAC10-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III
Public Participation Procedures

17VAC10-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an

opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

17VAC10-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

Regulations

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

17VAC10-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

17VAC10-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

17VAC10-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

17VAC10-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

17VAC10-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1461; Filed November 4, 2008, 11:50 a.m.

LIBRARY OF VIRGINIA (LIBRARY BOARD)

Final Regulation

Title of Regulation: 17VAC15-120. Regulations Governing the Destruction of Public Records Containing Social Security Numbers (adding 17VAC15-120-10, 17VAC15-120-20, 17VAC15-120-30).

Statutory Authority: §§ 42.1-8 and 42.1-82 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Conley Edwards, State Archivist, Library of Virginia, 800 East Broad Street, Richmond, VA 23219-8000, telephone (804) 692-3554, FAX (804) 692-3600, TTY (804) 692-3976, or email conley.edwards@lva.virginia.gov.

Summary:

The regulation addresses best methods for destruction of public records containing social security numbers so that the social security numbers in these records cannot be used for identity theft. The regulation provides that any public records, regardless of media, that contain social security numbers are to be destroyed at the end of their retention period in a manner that protects the confidentiality of the information. These records are to be destroyed, made electronically inaccessible, or erased so as to make social security numbers unreadable by any means.

Changes from the proposed regulation include adding definitions of "backup tapes," "custodian," and "pulped"; removing the phrases "other privacy protected information," and "privacy protected data," as outside of the regulation's scope; removing the requirement that data be overwritten multiples times; replacing the phrases referencing overwriting of backup tapes with requirement that data be totally obliterated; changing the requirement on crosscutting and shredding to apply only to shredding done within an agency or office; and adding that destruction should be witnessed by an agency representative if performed by a contractor.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

CHAPTER 120

REGULATIONS GOVERNING THE DESTRUCTION OF PUBLIC RECORDS CONTAINING SOCIAL SECURITY NUMBERS

17VAC15-120-10. Definitions.

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

["Backup tapes" means a copy of all or portions of software or data files on a system kept on storage media, such as tape or disk, or on a separate system so that the files can be restored if the original data is deleted or damaged and that are overwritten on a regular basis.

"Custodian" means the individual or organization having possession of and responsibility for the care and control of records.]

"Electronic record" means records created [~~or~~] stored [or accessed] by electronic means, including but not limited to computer files and optically scanned files on tapes, disks, CD-ROMs or internal memory.

"Overwritten" means replacing previously stored data on a drive or disk with a predetermined pattern of meaningless information that renders the data unrecoverable.

["Pulped" means a technique of macerating paper documents by soaking them in water and grinding them into pulp.]

"Retention period" means the required time period and disposition action indicated in a Library of Virginia-approved records retention and disposition schedule.

"Shredding" means destroying paper records by mechanical cutting. Cross-cut shredders cut in two directions, 90 degrees from the other.

17VAC15-120-20. Purpose [; applicability] .

[~~Public~~ The regulation establishes requirements that public] records, regardless of media, that contain social security numbers must be shredded, pulped, [~~burned~~ incinerated], made electronically inaccessible or erased so as to make the social security numbers unreadable or undecipherable by any means. These regulations apply only to those records whose retention periods have expired.

17VAC15-120-30. Procedures.

A. Paper records. Paper records shall be shredded [, pulped or incinerated. If paper records are destroyed within an office or agency, records shall be shredded] by a mechanical cross-cut shredder that reduces paper to [~~strips~~ a size] no wider than 3/8 inches. The custodian of the records must prepare a certificate of destruction that lists what records have been destroyed, who destroyed the documents, and the date of destruction.

Regulations

If the shredding is done off site, [by another agency or department, or by a contractor,] locked bins are required to protect the records prior to shredding. Contractors doing the shredding must be bonded. The agency contracting for the shredding retains responsibility for protecting the social security numbers on the records until destruction. [A representative of the contracting agency shall witness the destruction.]

B. Electronic records. Agencies must establish procedures and processes to destroy social security numbers in public records that have reached the end of their retention period in electronic format and stored on information or recordkeeping systems. [Agencies may maintain or destroy the physical media.]

1. Files stored on a computer must not only be deleted but also overwritten [to prevent the information from being reconstructed. Software programs that overwrite the data with meaningless data multiple times to totally obliterate the original data must be utilized for overwriting using software that overwrites the files with meaningless data to totally obliterate the original data and to prevent the information from being reconstructed].

2. Back-up tapes must be overwritten [at the same time as all other copies are destroyed Tapes shall be held no longer than the conclusion of the retention period for the information contained in the tape to totally obliterate the original data].

[3. Data containing social security numbers on floppy disks, tapes and other magnetic storage devices must be overwritten.

a. Disks, tapes and other magnetic media must be shredded in a shredder to insure that the information is totally destroyed or the materials must be exposed to a powerful magnetic field to disrupt the information.

b. If magnetic media are used, the data must be reviewed to insure that the social security numbers are not retrievable.

3. If an agency plans to maintain the floppy disks, tapes or other magnetic storage devices, other than hard drives, with data containing social security numbers, the media must be:

a. Overwritten using software that overwrites the files with meaningless data to totally obliterate the original data; or

b. Exposed to a powerful magnetic field to disrupt the information. If a magnetic field is used, the data must be reviewed to ensure that the social security numbers are not retrievable.]

4. CD-ROMs must be [incinerated or] physically broken, into several pieces, to be rendered unusable.

5. When disposing of computers that contain social security numbers [or other privacy protected information], hard drives must be overwritten and inspected to insure no [privacy protected data remains social security numbers remain]. If data remains, the hard drive must be removed and disposed of separately by drilling to prevent it from being used again.

VA.R. Doc. No. R05-95; Filed October 31, 2008, 1:38 p.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC25-10. Public Participation Guidelines (repealing 18VAC25-10-10 through 18VAC25-10-90).**

18VAC25-11. Public Participation Guidelines (adding 18VAC25-11-10 through 18VAC25-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-602 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email Auctioneers@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be

sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

18VAC25-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Auctioneers Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC25-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Auctioneers Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic

list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

18VAC25-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

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D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC25-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC25-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC25-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC25-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC25-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC25-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC25-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC25-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing

following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC25-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

V.A.R. Doc. No. R09-1466; Filed October 29, 2008, 2:49 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 18VAC41-10. Public Participation Guidelines (repealing 18VAC41-10-10 through 18VAC41-10-90).

Regulations

18VAC41-11. Public Participation Guidelines (adding 18VAC41-11-10 through 18VAC41-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: December 24, 2008.

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

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

18VAC41-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Barbers. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC41-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Barbers, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

18VAC41-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC41-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC41-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC41-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the

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changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC41-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC41-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC41-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC41-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC41-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC41-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1468; Filed October 30, 2008, 11:42 a.m.

CEMETERY BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC47-10. Public Participation Guidelines (repealing 18VAC47-10-10 through 18VAC47-10-90).**

18VAC47-11. Public Participation Guidelines (adding 18VAC47-11-10 through 18VAC47-11-110).

Statutory Authority: §§ 2.2-4007.02, 54.1-201 and 54.1-2313 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Christine Martine, Executive Director, Cemetery Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email cemetery@dpwr.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of

the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

18VAC47-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Cemetery Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC47-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Cemetery Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

Regulations

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC47-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC47-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC47-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a re-proposed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC47-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC47-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC47-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC47-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC47-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

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18VAC47-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC47-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1470; Filed October 24, 2008, 11:50 a.m.

BOARD FOR CONTRACTORS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC50-10. Public Participation Guidelines (repealing 18VAC50-10-10 through 18VAC50-10-90).**

18VAC50-11. Public Participation Guidelines (adding 18VAC50-11-10 through 18VAC50-11-110).

Statutory Authority: §§ 2.2-4007.02, 54.1-201 and 54.1-1102 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Eric L. Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

18VAC50-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Contractors. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC50-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Contractors, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC50-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC50-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC50-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

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3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC50-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the

changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC50-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC50-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC50-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC50-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC50-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC50-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1472; Filed November 4, 2008, 11:56 a.m.

FAIR HOUSING BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Title of Regulation: **18VAC62-10. Public Participation Guidelines (adding 18VAC62-10-10 through 18VAC62-10-110).**

Statutory Authority: §§ 2.2-4007.02, 54.1-201 and 54.1-2344 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Christine Martine, Executive Director, Fair Housing Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email fairhousing@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of

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interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 10 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

18VAC62-10-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Fair Housing Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC62-10-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Fair Housing Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic

list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

18VAC62-10-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC62-10-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC62-10-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III
Public Participation Procedures

18VAC62-10-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC62-10-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

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E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC62-10-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC62-10-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

18VAC62-10-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC62-10-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing

following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC62-10-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1473; Filed October 24, 2008, 11:49 a.m.

BOARD FOR HEARING AID SPECIALISTS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 18VAC80-10. Public Participation Guidelines (repealing 18VAC80-10-10 through 18VAC80-10-90).

18VAC80-11. Public Participation Guidelines (adding 18VAC80-11-10 through 18VAC80-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: December 24, 2008.

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

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

**CHAPTER 11
PUBLIC PARTICIPATION GUIDELINES**

**Part I
Purpose and Definitions**

18VAC80-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Hearing Aid Specialists. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC80-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Hearing Aid Specialists, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

Regulations

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC80-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC80-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC80-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC80-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the

changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC80-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC80-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC80-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC80-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC80-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

Regulations

18VAC80-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1479; Filed November 3, 2008, 11:56 a.m.

BOARD OF LONG-TERM CARE ADMINISTRATORS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC95-10. Public Participation Guidelines (repealing 18VAC95-10-10 through 18VAC95-10-120).**

18VAC95-11. Public Participation Guidelines (adding 18VAC95-11-10 through 18VAC95-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-2400 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4424, FAX (804) 527-4413, or email lisa.hahn@dhp.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public

participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

18VAC95-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Long-Term Care Administrators. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC95-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Long-Term Care Administrators, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC95-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC95-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC95-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC95-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

Regulations

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC95-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC95-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC95-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC95-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC95-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC95-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1482; Filed November 5, 2008, 11:48 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Long-Term Care Administrators is claiming an exemption from 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 of Long-Term Care Administrators will receive, consider and

respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-225).**

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

Effective Date: December 24, 2008.

Agency Contact: Lisa Russell Hahn, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4424, FAX (804) 527-4413, or email lisa.hahn@dhp.virginia.gov.

Summary:

The board acted to eliminate the requirement for an applicant for licensure as a nursing home administrator to take an examination on Virginia law and regulations and substitute a requirement that the applicant attest to having an understanding of the law and regulation. An amendment to 18VAC95-20-225, Licensure by endorsement, was omitted in error in the submission that was published on June 9, 2008.

18VAC95-20-225. Qualifications for licensure by endorsement.

The board may issue a license to any person who:

1. Holds a current, unrestricted license from any state or the District of Columbia; and
2. Meets one of the following conditions:
 - a. Has practiced nursing home administration for one year; or
 - b. Has education and experience equivalent to qualifications required by this chapter and has provided written evidence of those qualifications at the time of application for licensure; and
- ~~3. Has successfully completed the state examination.~~

VA.R. Doc. No. R09-1676; Filed November 5, 2008, 11:48 a.m.

Regulations

BOARD FOR OPTICIANS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC100-10. Public Participation Guidelines (repealing 18VAC100-10-10 through 18VAC100-10-90).**

18VAC100-11. Public Participation Guidelines (adding 18VAC100-11-10 through 18VAC100-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, FAX (804) 527-4295, or email opticians@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

18VAC100-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Opticians. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC100-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Opticians, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

18VAC100-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC100-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC100-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC100-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

Regulations

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC100-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC100-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC100-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

18VAC100-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC100-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC100-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1483; Filed October 23, 2008, 2:55 p.m.

REAL ESTATE APPRAISER BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 18VAC130-10. Public Participation Guidelines (repealing 18VAC130-10-10 through 18VAC130-10-90).

18VAC130-11. Public Participation Guidelines (adding 18VAC130-11-10 through 18VAC130-11-110).

Statutory Authority: §§ 2.2-4007.02, 54.1-201 and 54.1-2013 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email reappraisers@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

**CHAPTER 11
PUBLIC PARTICIPATION GUIDELINES**

**Part I
Purpose and Definitions**

18VAC130-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Real Estate Appraiser Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC130-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Real Estate Appraiser Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

Regulations

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC130-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC130-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC130-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC130-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an

opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC130-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC130-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC130-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

Regulations

3. The agency determines that resolution of a controversy is unlikely.

18VAC130-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC130-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC130-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1490; Filed October 24, 2008, 11:51 a.m.

REAL ESTATE BOARD

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC135-10. Public Participation Guidelines (repealing 18VAC135-10-10 through 18VAC135-10-90).**

18VAC135-11. Public Participation Guidelines (adding 18VAC135-11-10 through 18VAC135-11-110).

Statutory Authority: §§ 2.2-4007.02, 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Christine Martine, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email reboard@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

18VAC135-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Real Estate Board. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC135-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Real Estate Board, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II Notification of Interested Persons

18VAC135-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

Regulations

18VAC135-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC135-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC135-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC135-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC135-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC135-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

18VAC135-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC135-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC135-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1491; Filed October 24, 2008, 11:49 a.m.

**BOARD FOR PROFESSIONAL SOIL SCIENTISTS
AND WETLAND PROFESSIONALS**

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 18VAC145-10. Public Participation Guidelines (repealing 18VAC145-10-10 through 18VAC145-10-90).

18VAC145-11. Public Participation Guidelines (adding 18VAC145-11-10 through 18VAC145-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email soilscientist@dpor.virginia.gov.

Regulations

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

18VAC145-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Professional Soil Scientists and Wetland Professionals. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC145-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Professional Soil Scientists and Wetland Professionals, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II
Notification of Interested Persons

18VAC145-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC145-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC145-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III
Public Participation Procedures

18VAC145-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an

opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC145-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

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B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC145-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC145-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

18VAC145-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC145-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC145-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1493; Filed October 29, 2008, 2:51 p.m.

BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **18VAC155-10. Public Participation Guidelines (repealing 18VAC155-10-5 through 18VAC155-10-80).**

18VAC155-11. Public Participation Guidelines (adding 18VAC155-11-10 through 18VAC155-11-110).

Statutory Authority: §§ 2.2-4007.02 and 54.1-201 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: David E. Dick, Executive Director, Board for Waste Management Facility Operators, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (804) 527-4297, or email wastemgt@dpor.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be

controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

18VAC155-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board for Waste Management Facility Operators. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

18VAC155-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board for Waste Management Facility Operators, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal

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or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC155-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC155-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC155-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a re-proposed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

18VAC155-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a re-proposed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC155-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC155-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or

when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC155-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

18VAC155-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC155-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

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2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC155-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1495; Filed November 3, 2008, 11:54 a.m.

TITLE 23. TAXATION

DEPARTMENT OF TAXATION

Forms

NOTICE: The following forms have been filed by the Department of Taxation. Copies of the forms may be obtained from Department of Taxation, 3610 West Broad Street, Richmond, VA 23230 or at the Department of Taxation's website, www.tax.virginia.gov. For questions about forms, please contact Customer Service at (804) 367-8037.

Titles of Regulations: 23VAC10-210. Retail Sales and Use Tax.

23VAC10-240. Motor Vehicle Fuel Sales Tax Regulations.

FORMS (23VAC10-210)

~~Combined Business~~ Registration Application Form, Form R-1 (eff. 10/89) (rev. 3/08).

~~Instructions for Completing Combined Registration, Form R-2~~ (eff. 10/89).

~~4½% 5%~~ Virginia Sales Tax Table (eff. 1/87) (rev. 9/04).

~~2.5%~~ Virginia Qualifying Food Sales Tax Table (rev. 4/05).

~~Certificate of Registration, Form ST-4~~ (eff. 3/89) (rev. 2/08).

~~Virginia Direct Payment Permit Sales and Use Tax Return, Form ST-6~~ (eff. 1/90) (rev. 9/05).

~~Instructions for Form ST-6B Virginia Direct Payment Permit Sales and Use Tax Return Worksheet (Instructions), Form ST-6A~~ (eff. 5/91) (rev. 9/05).

~~Virginia Schedule of Local Sales and Use Taxes, Form ST-6B~~ (eff. 9/88) (rev. 7/05).

~~Virginia Business Consumer's Use Tax Return, Form ST-7~~ (eff. 4/91) (rev. 7/05).

~~Virginia Business Consumer's Use Tax Return Worksheet and Instructions, Form ST-7A~~ (eff. 11/93) (rev. 6/05).

~~Virginia Out-of-State Dealer's Use Tax Return, Form ST-8~~ (eff. 1/92) (rev. 9/05).

~~Instructions for Preparing ST-8 Virginia Out-of-State Dealer's Use Tax Return Worksheet and Instructions, Form ST-8A~~ (eff. 5/94) (rev. 9/05).

~~Dealer's Virginia Retail Sales & and Use Tax Return, Form ST-9~~ (eff. 1/92) (rev. 11/06).

~~Dealer's Worksheet for Computing State and Local Virginia Retail Sales & and Use Tax Worksheet and Instructions, Form ST-9A~~ (eff. 9/92) (rev. 9/05).

~~Schedule of Local Sales and Use Taxes, Form ST-9B~~ (eff. 7/90) (rev. 7/05).

~~Application for Sales and Use Tax Exemption for Nonprofit Organizations, Form NPO Appl~~ (rev. 1/08).

Sales and Use Tax Certificate of Exemption (For dealers who purchase tangible personal property for resale, lease or rental), Form ST-10 (rev. 10/99).

Sales and Use Tax Certificate of Exemption (For catalogs and other printed materials distributed outside of Virginia; property delivered to factor or agent for foreign export; advertising for placement in media; advertising supplements), Form ST-10A (eff. 3/86) (rev. 6/95).

Sales and Use Tax Certificate of Exemption (for use by handicapped persons for purchase of special equipment for installation on a motor vehicle), Form ST-10B (rev. 7/78).

Sales and Use Tax Certificate of Exemption (For manufacturing, processing, refining, converting, mining, basic research and research and development in experimental or laboratory sense, or certified pollution control equipment; equipment, materials or supplies used in the production of a

publication issued at least quarterly; high speed electrostatic duplicators; materials, containers, etc. for future used for packaging tangible personal property for shipment or sale-), Form ST-11 (~~eff. 6/94~~) (rev. 6/06).

Sales and Use Tax Certificate of Exemption (For use by construction contractors and non-manufacturers when purchasing tangible personal property for usage directly in manufacturing products for sale or resale which are exempt from the tax; incorporation into real property in another state or foreign country which could be purchased free from the tax in such state or country; agricultural production, to be affixed to real property owned or leased by a farmer engaged in agricultural production for market-), Form ST-11A (~~eff. 6/94~~) (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by a semiconductor manufacturer), Form ST-11B (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by the Commonwealth of Virginia, a political subdivision of the Commonwealth of Virginia, or the United States-), Form ST-12 (rev. 10/06).

Sales and Use Tax Certificate of Exemption (For use by certain ~~nonprofit organizations that have been granted statutory exemption from the tax; medical and educational related organizations-~~), Form ST-13 (~~eff. 6/94~~) (rev. 10/06).

Sales and Use Tax Certificate of Exemption (For use by nonprofit churches), Form ST-13A (~~eff. 6/88~~) (rev. 6/07).

Sales and Use Tax Certificate of Exemption (For use exclusively by an out-of-state dealer who purchases tangible personal property in VA for immediate transportation out of VA in his own vehicle for resale outside VA-), Form ST-14 (~~eff. 5/2/88~~) (rev. 3/99).

Sales and Use Tax Certificate of Exemption (For use exclusively by an out-of-state dealer who purchases livestock in VA for immediate transportation out of VA for resale outside VA-), Form ST-14A (~~eff. 3/1/76~~) (rev. 1/99).

Sales and Use Tax Certificate of Exemption (For use by individuals purchasing heating oil, artificial or propane gas, firewood or coal for domestic consumption-), Form ST-15 (~~eff. 9/81~~) (rev. 9/05).

Sales and Use Tax Certificate of Exemption (For use by watermen who extract fish, bivalves, or crustaceans from waters for commercial purposes.), Form ST-16 (~~eff. 7/85~~) (rev. 9/05).

Sales and Use Tax Certificate of Exemption (For use by harvesters of forest products.), Form ST-17 (~~eff. 6/94~~) (rev. 7/99).

Sales and Use Tax Certificate of Exemption (For use by farmers engaged in agricultural production), Form ST-18 (~~eff. 5/94~~) (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by shipping lines engaged in interstate or foreign commerce, and by shipbuilding companies engaged in building, converting or repairing ships or vessel-), Form ST-19 (rev. 6/05).

Sales and Use Tax Certificate of Exemption (For use by certain public service corporations, commercial radio, and television companies, cable television systems, taxicab operators and certain airlines.), Form ST-20 (~~eff. 3/89~~) (rev. 9/04).

Sales and Use Tax Certificate of Exemption (For use by production companies, program producers, radio, television and cable T.V. companies, and other entities engaged in the production and creation of exempt audiovisual works and the licensing, distribution and broadcasting of same), Form ST-20A (rev. 9/05).

Sales and Use Tax Certificate of Exemption (For use when purchasing or leasing railroad rolling stock from a manufacturer), Form ST-22 (rev. 4/07).

Sales and Use Tax Certificate of Exemption (For use by individuals purchasing multi-fuel heating stoves for resident heating), Form ST-23 (rev. 8/07).

~~Sales and Use Tax Direct Payment Permit~~, Form ST-21 (~~eff. 2/94~~).

Virginia Consumers Use Tax Return for Individuals, Form CU-7 (~~eff. 9/93~~) (rev. 6/07).

Dealer's Application for Certificate of Registration for Sales through Vending Machines, Form VM-1 (~~eff. 1/91~~).

Virginia Vending Machine Dealer's Sales Tax Return, Form VM-2 (~~eff. 9/89~~) (rev. 8/05).

Dealer's Worksheet for Computing Tax on Sales Through Virginia Vending Machines Dealer's Sales Tax Return Worksheet, Form VM-2A (~~eff. 4/93~~) (rev. 9/05).

Schedule of Local Vending Machine Sales Tax, Form VM-2B (~~eff. 9/89~~) (rev. 7/05).

FORMS (23VAC10-240)

Motor Vehicle Fuel Sales Tax Dealer's Application for Registration, Form FT-100 (~~eff. 8/94~~) (rev. 12/06).

Business Registration Application, Form R-1 (rev. 3/08).

Dealer's Worksheet for Computing Only the Virginia Motor Vehicle Fuel Sales Tax Worksheet and Instructions, Form FT-101 (~~eff. 5/91~~) (rev. 12/06).

Dealer's Return & Instructions for Motor Vehicle Fuel Sales Tax Virginia Motor Vehicle Fuel Sales Tax Return, Form FT-102 (~~eff. 9/89~~) (rev. 12/06).

Schedule of Motor Vehicle Fuel Sales Tax, Form FT-102A (~~eff. 1/89~~) (rev. 7/05).

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Virginia Motor Vehicle Fuel Sales Tax Schedule of Retailer Purchases for Resale, Form FT-102B (~~eff. 1/89~~) (rev. 10/07).

Virginia Motor Vehicle Fuel Sales Tax Bracket System, Form FT-106 (~~eff. 6/90~~) (rev. 9/05).

Certificate of Exemption (For persons who purchase fuel in the Cities of Alexandria, Manassas, Manassas Park, Fairfax,...), Form FT-200 (rev. 6/00).

Certificate of Registration, Form ST-4 (rev. 2/08).

Sales and Use Tax Certificate of Exemption (For dealers who purchase tangible personal property for resale, lease or rental), Form ST-10 (~~eff. 4/88~~) (rev. 10/99).

Sales and Use Tax Certificate of Exemption (For catalogs and other printed materials distributed outside of Virginia; property delivered to factor or agent for foreign export; advertising for placement in media; advertising supplements), Form ST-10A (~~eff. 3/86~~) (rev. 6/95).

Sales and Use Tax Certificate of Exemption (For manufacturing, processing, refining, converting, mining, basic research and research and development in experimental or laboratory sense, or certified pollution control equipment; equipment, materials or supplies used in the production of a publication issued at least quarterly; high speed electrostatic duplicators; materials, containers, etc. for future used for packaging tangible personal property for shipment or sale-), Form ST-11 (~~eff. 6/94~~) (rev. 6/06).

Sales and Use Tax Certificate of Exemption (For use by construction contractors and non-manufacturers when purchasing tangible personal property for usage directly in manufacturing products for sale or resale which are exempt from the tax; incorporation into real property in another state or foreign country which could be purchased free from the tax in such state or country; agricultural production, to be affixed to real property owned or leased by a farmer engaged in agricultural production for market-), Form ST-11A (~~eff. 6/94~~) (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by a semiconductor manufacturer), Form ST-11B (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by the Commonwealth of Virginia, a political subdivision of the Commonwealth of Virginia, or the United States-), Form ST-12 (rev. 10/06).

Sales and Use Tax Certificate of Exemption (For use by certain ~~nonprofit organizations that have been granted statutory exemption from the tax; medical and educational related organizations-~~), Form ST-13 (~~eff. 6/94~~) (rev. 10/06).

Sales and Use Tax Certificate of Exemption (For use by nonprofit churches), Form ST-13A (~~eff. 6/88~~) (rev. 6/07).

Sales and Use Tax Certificate of Exemption (For use exclusively by an out-of-state dealer who purchases tangible

personal property in VA for immediate transportation out of VA in his own vehicle for resale outside VA-), Form ST-14 (~~eff. 5/2/88~~) (rev. 3/99).

Sales and Use Tax Certificate of Exemption (For use exclusively by an out-of-state dealer who purchases livestock in VA for immediate transportation out of VA for resale outside VA-), Form ST-14A (~~eff. 3/1/76~~) (rev. 1/99).

Sales and Use Tax Certificate of Exemption (For use by individuals purchasing heating oil, artificial or propane gas, firewood or coal for domestic consumption-), Form ST-15 (~~eff. 9/81~~) (rev. 9/05).

Sales and Use Tax Certificate of Exemption (For use by watermen who extract fish, bivalves, or crustaceans from waters for commercial purposes-), Form ST-16 (~~eff. 7/85~~) (rev. 9/05).

Sales and Use Tax Certificate of Exemption (For use by harvesters of forest products-), Form ST-17 (~~eff. 6/94~~) (rev. 7/99).

Sales and Use Tax Certificate of Exemption (For use by farmers engaged in agricultural production), Form ST-18 (~~eff. 5/94~~) (rev. 5/06).

Sales and Use Tax Certificate of Exemption (For use by shipping lines engaged in interstate or foreign commerce, and by shipbuilding companies engaged in building, converting or repairing ships or vessel-), Form ST-19 (rev. 6/05).

Sales and Use Tax Certificate of Exemption (For use by certain public service corporations, commercial radio, and television companies, cable television systems, taxicab operators and certain airlines-), Form ST-20 (~~eff. 3/89~~) (rev. 9/04).

VA.R. Doc. No. R09-1643; Filed October 23, 2008, 12:00 p.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF MOTOR VEHICLES

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **24VAC20-10. Public Participation Guidelines for Regulation Development and Promulgation (repealing 24VAC20-10-10 through 24VAC20-10-140).**

24VAC20-11. Public Participation Guidelines (adding 24VAC20-11-10 through 24VAC20-11-110).

Statutory Authority: §§ 2.2-4007.02 and 46.2-203 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Barbara S. Klotz, Legislative Services Manager, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-8171, FAX (804) 367-6631, TTY (800) 272-9268, or email barbara.klotz@dmv.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

24VAC20-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Department of Motor Vehicles. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

24VAC20-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Department of Motor Vehicles, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under

Regulations

consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

24VAC20-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

24VAC20-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 24VAC20-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

24VAC20-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

24VAC20-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

24VAC20-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

24VAC20-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

24VAC20-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

24VAC20-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

Regulations

24VAC20-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1509; Filed October 31, 2008, 10:37 a.m.

BOARD OF TOWING AND RECOVERY OPERATORS

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: **24VAC27-10. Public Participation Guidelines (repealing 24VAC27-10-10 through 24VAC27-10-120).**

24VAC27-11. Public Participation Guidelines (adding 24VAC27-11-10 through 24VAC27-11-110).

Statutory Authority: §§ 2.2-4007.02 and 46.2-2809 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Marc Copeland, Acting Executive Director, Board for Towing & Recovery Operators, c/o Virginia Department of Motor Vehicles, P.O. Box 2741, Richmond, VA 23269, telephone (804) 367-0714, FAX (804) 367-7018, or email marc.copeland@btro.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of

the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

CHAPTER 11

PUBLIC PARTICIPATION GUIDELINES

Part I

Purpose and Definitions

24VAC27-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Towing and Recovery Operators. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

24VAC27-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Towing and Recovery Operators, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

24VAC27-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

24VAC27-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 24VAC27-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III

Public Participation Procedures

24VAC27-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

Regulations

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.
4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

24VAC27-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

24VAC27-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

24VAC27-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

24VAC27-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

24VAC27-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

- 1. The agency's basic law requires the agency to hold a public hearing;
- 2. The Governor directs the agency to hold a public hearing; or
- 3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

24VAC27-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

- 1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
- 2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

V.A.R. Doc. No. R09-1511; Filed October 31, 2008, 10:40 a.m.

DEPARTMENT OF TRANSPORTATION

Final Regulation

REGISTRAR'S NOTICE: The following model public participation guidelines are exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia pursuant to Chapter 321 of the 2008 Acts of Assembly.

Titles of Regulations: 24VAC30-10. Public Participation Guidelines (repealing 24VAC30-10-10 through 24VAC30-10-70).

24VAC30-11. Public Participation Guidelines (adding 24VAC30-11-10 through 24VAC30-11-110).

Statutory Authority: §§ 2.2-4007.02 and 33.1-12 of the Code of Virginia.

Effective Date: December 24, 2008.

Agency Contact: Keith M. Martin, Agency Regulatory Coordinator, Department of Transportation, Policy Division, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-1830, FAX (804) 225-4700, or email keithm.martin@vdot.virginia.gov.

Summary:

The regulations comply with the legislative mandate (Chapter 321, 2008 Acts of Assembly) that agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development, amendment, or repeal of an agency's regulations.

This regulatory action repeals the current public participation guidelines and promulgates new public participation guidelines as required by Chapter 321 of the 2008 Acts of Assembly. Highlights of the public participation guidelines include (i) providing for the establishment and maintenance of notification lists of interested persons and specifying the information to be sent to such persons; (ii) providing for public comments on regulatory actions; (iii) establishing the time period during which public comments shall be accepted; (iv) providing that the plan to hold a public meeting shall be indicated in any notice of intended regulatory action; (v) providing for the appointment, when necessary, of regulatory advisory panels to provide professional specialization or technical assistance and negotiated rulemaking panels if a regulatory action is expected to be controversial; and (vi) providing for the periodic review of regulations.

**CHAPTER 11
PUBLIC PARTICIPATION GUIDELINES**

**Part I
Purpose and Definitions**

24VAC30-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Commonwealth Transportation Board, the Commonwealth Transportation Commissioner, or the Virginia Department of Transportation. This chapter does not apply to regulations, guidelines, or other documents

Regulations

exempted or excluded from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

24VAC30-11-20. Definitions.

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

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the entity of state government empowered by the agency's basic law to make regulations or decide cases. This term includes the Commonwealth Transportation Board, the Commonwealth Transportation Commissioner, or the Virginia Department of Transportation. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§ 2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

24VAC30-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

24VAC30-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 24VAC30-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).

2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.

3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to § 2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

24VAC30-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing, to the agency. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.

2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).

2. For a minimum of 60 calendar days following the publication of a proposed regulation.

3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.

5. For a minimum of 30 calendar days following the publication of a fast-track regulation.

6. For a minimum of 21 calendar days following the publication of a notice of periodic review.

7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

24VAC30-11-60. Petition for rulemaking.

A. As provided in § 2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;

2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and

3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to § 2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

24VAC30-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or

Regulations

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

24VAC30-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. An NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;

2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or

3. The agency determines that resolution of a controversy is unlikely.

24VAC30-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with § 2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

24VAC30-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;

2. The Governor directs the agency to hold a public hearing; or

3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also

notify those persons who requested a hearing under subdivision C 3 of this section.

24VAC30-11-110. Periodic review of regulations.

A. The agency shall conduct a periodic review of its regulations consistent with:

1. An executive order issued by the Governor pursuant to § 2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and

2. The requirements in § 2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.

B. A periodic review may be conducted separately or in conjunction with other regulatory actions.

C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

VA.R. Doc. No. R09-1512; Filed November 4, 2008, 12:32 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 79 (2008)

CONTINUING THE STATEWIDE AGENCIES RADIO SYSTEM (STARS)

It is essential that a statewide system of integrated radio and wireless data communication be developed for state agencies engaged in public protection and safety and for the mutual aid needs of state and local law enforcement agencies.

The management structure of a statewide radio system that is shared between numerous agencies that provide public protection and safety services pose considerable challenges. To meet the needs of all potential users, the managing entity must establish and provide formal communication avenues for users of the system to report system problems and to provide valuable input to the design of the system and its efficient operations and troubleshooting.

In order to be effective, a statewide radio system must meet the needs of a diverse group of agencies and localities. Therefore, appropriate entities, composed of Secretarial representation for each of the participating agencies, must be established and empowered to oversee policy and direction for the system. Also, an implementation and operation unit must be established to manage, maintain, and operate a reliable integrated radio communications system.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-103 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the initiative to accomplish the goals of the Statewide Agencies Radio System (STARS).

Pursuant to Chapter 3, Title 42, of the Code of Virginia, I hereby continue the initiatives associated with the Statewide Agencies Radio System (STARS) to meet the need for an integrated radio and wireless data communications system for state agencies engaged in public protection and safety and for interconnection between state and local police communication systems at the city and county level. As part of this initiative, I hereby continue the STARS Management Group (hereinafter called the "Management Group"), and STARS Project Management Team (hereinafter called the "Management Team"), and the User Agency Requirements Committee (hereinafter called "UARC").

STARS Membership

The STARS membership shall be composed of the following state agencies, and any other state agencies or institutions and local government agencies or institutions that the Management Group approves:

Chesapeake Bay Bridge and Tunnel Police,
Department of Agriculture and Consumer Services,
Division of Charitable Gaming,

Department of Alcoholic Beverage Control
Division of Capitol Police,
Department of Conservation and Recreation,
Department of Corrections,
Department of Emergency Management,
Department of Environmental Quality,
Department of Fire Programs,
Department of Forestry,
Department of Game and Inland Fisheries,
Department of Health,
Department of Juvenile Justice,
Department of Military Affairs,
Department of Mines, Minerals, and Energy,
Department of Motor Vehicles,
Department of State Police,
Department of Transportation,
Virginia Information Technologies Agency,
Virginia Marine Resources Commission, and
Virginia Port Authority

Withdrawal by state agencies and institutions from STARS shall be only upon approval of the Management Group.

STARS Management Group

The Management Group shall provide overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Group

The Secretaries of Public Safety, Technology, Transportation, Natural Resources, Commerce and Trade, Health and Human Resources, Agriculture and Forestry, and Finance shall serve as members of the Management Group.

The Secretary of Public Safety shall serve as chair of the Management Group. The chair of the Management Group shall have the power to set meetings and make assignments to members of the user group established below.

B. Duties of the Management Group:

The specific duties of the Management Group are to:

- Provide direction and overall governance for the STARS, including communications privacy and security,
- Review all procurements and contracts relating to the STARS,
- Coordinate and assign radio frequency licenses granted by the federal government to agencies of the Commonwealth, and
- Promote interagency cooperation and coordination in the use of communications resources.

The Management Group shall also designate and oversee the Management Team.

STARS Project Management Team

The Management Team shall provide staff for overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Team:

The Management Team shall consist of persons with project management, electrical engineering, civil engineering, communications technology, procurement, contract administration, and accounting expertise.

B. Duties of the Management Team:

The Management Team shall be responsible for development of a comprehensive management plan and procedures for the use and operation of STARS. It shall also be responsible for resolving general operating issues between STARS users. Any issues that can not be resolved by the Management Team shall be addressed by the Management Group.

STARS User Agency Requirements Committee (UARC)

A user group called the User Agency Requirements Committee (UARC), consisting of representatives from each member agency and institution, shall assist the Management Team. The Management Group shall select the chairman. The STARS Program Director serves as the co-chairman of UARC.

A. Composition of UARC:

The head of each member agency and institution shall appoint one member of their respective staffs and a designated alternate to serve on UARC.

B. Duties of UARC:

The User Group shall assist the Management Team by establishing such operating procedures, executive committee, and subcommittees, as it deems appropriate to carry out its work. UARC shall meet as necessary, but at least quarterly.

The specific duties of UARC are to:

- Advise of the needs of member agencies for the planning, design, establishment, and operation of STARS.
- Provide advice on proposals for other federal, state, or local agencies to join STARS and on any proposals for third party use of any STARS infrastructure or component, and
- Assist the Management Team with the development of a comprehensive management plan and procedures for the use and operation of STARS. The management plan and any changes thereto shall be subject to review and approval by the Management Group.

STARS Procurement

As provided in Item 457 of the 2002 Appropriation Act (Chapter 899 of the 2002 Acts of Assembly), the Commonwealth entered into a Contract with Motorola on July 13, 2004, for the design, construction, and implementation of STARS with the approval of the Governor and the General Assembly.

The Secretary of Public Safety, with the assistance of the Secretary of Finance, the Secretary of Technology, the Department of Planning and Budget, and the Treasurer, continues the oversight for the financing of STARS.

The Management Group shall report on the status of STARS, including the status of any contract negotiations within the limitations of the Virginia Public Procurement Act (Section 11-35 et seq. of the Code of Virginia) to the Governor and General Assembly by January 1 of each year.

This Executive Order rescinds Executive Order One Hundred One (2005) issued by Governor Mark R. Warner.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until October 25, 2011, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 24th day of October 2008.

/s/ Timothy M. Kaine
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Load - Bull Creek

Announcement of an extension of the public comment period for the draft TMDL (total maximum daily load) in Bull Creek in Buchanan County, Virginia.

Purpose of notice: To extend the public comment period for the draft Bull Creek TMDL.

Description of study: DEQ has been working to identify sources of pollutants affecting the aquatic organisms in the waters of Bull Creek. Bull Creek is in Buchanan County and flows along Route 609 to Levisa Fork downstream of Grundy, Virginia. The "impaired" stream segments are estimated to be approximately 16.9 miles including Bull Creek, from the headwaters to the confluence with Levisa Fork, and all tributaries; Belcher Branch, Deel Fork, Burnt Poplar Branch, Big Branch, Starr Branch, Jess Fork, and Convict Hollow. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms.

During the study, the pollutants impairing the aquatic community have been identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, November 24, 2008, to December 29, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Shelley D. Williams, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email sdwilliams@deq.virginia.gov.

Total Maximum Daily Load - North Fork and South Fork Pound Rivers

Announcement of an extension of the public comment period for the draft TMDL (total maximum daily load) for North Fork and South Fork Pound Rivers in Wise County, Virginia.

Purpose of notice: To extend the public comment period for the draft report for the North and South Fork Pound River in Southwest Virginia.

Description of study: DEQ has been working to identify sources of pollutants affecting the aquatic organisms in the waters of the North and South Fork Pound Rivers. The South Fork Pound River flows along Route 671 and confluences with the North Fork Pound River in the Town of Pound along Business Route 23. The "impaired" stream segments are estimated to total approximately 7.64 miles. The stream is impaired for failing to meet the aquatic life use based on violations of the general standard for aquatic organisms.

During the study, the pollutants impairing the aquatic community will be identified and total maximum daily loads, or TMDLs, developed for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels must be reduced to the TMDL amount.

How a decision is made: The development of a TMDL includes public meetings and a public comment period once the study report is drafted. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by DEQ during the comment period, November 24, 2008, to December 29, 2008. DEQ also accepts written and oral comments at the public meeting announced in this notice.

To review draft TMDL report: The draft TMDL report on the impaired waters is available the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Shelley Williams, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Southwest Regional Office, 355 Deadmore Street, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4845, FAX (276) 676-4899, or email sdwilliams@deq.virginia.gov.

General Notices/Errata

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on October 28, 2008, and November 4, 2008. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Fifty-Five (08)

Virginia's Instant Game Lottery 1080; "Deuces Wild" (effective 10/31/08)

Director's Order Number Fifty-Six (08)

Virginia's Instant Game Lottery 1084; "Cash Blast" (effective 10/31/08)

Director's Order Number Fifty-Seven (08)

Virginia's Instant Game Lottery 1085; "Maximum Millions" (effective 10/31/08)

Director's Order Number Sixty-Six (08)

Virginia's Instant Game Lottery 1078; "Aces High" (effective 10/14/08 nunc pro tunc)

Director's Order Number Sixty-Seven (08)

Virginia's Instant Game Lottery 1079; "Stocking Stuffer" (effective 10/31/08)

Director's Order Number Sixty-Eight (08)

Virginia's Instant Game Lottery 1081; "Holiday Dough Doubler" (effective 10/31/08)

Director's Order Number Sixty-Nine (08)

Virginia's Instant Game Lottery 1091; "Super Cash" (effective 10/14/08 nunc pro tunc)

DEPARTMENT OF SOCIAL SERVICES

Periodic Review of Regulations

Pursuant to Executive Order Number 36 (2006), the Department of Social Services is currently reviewing 22VAC40-141, Licensing Standards for Independent Foster Homes, to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number 36 (2006) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life,

essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measureable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

Written comments may be submitted until December 15, 2008, in care of Joni Baldwin, Program Development Consultant, Division of Licensing Programs, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, by email joni.baldwin@dss.virginia.gov or by FAX (804) 726-7132.

VIRGINIA SOIL AND WATER CONSERVATION BOARD

Proposed Consent Special Order - City of Petersburg

Purpose of notice: To seek public comment on the terms of a proposed consent special order (order) issued to the City of Petersburg (city) regarding the city's municipal separate storm sewer system (MS4).

Public comment period: November 24, 2008, through December 23, 2008.

Summary of proposal: The proposed order describes a settlement between the board and the city regarding the Petersburg MS4 to ensure compliance with the Virginia Stormwater Management Act and Regulations.

How to comment: The Virginia Department of Conservation and Recreation accepts written comments from the public by mail, email, or facsimile. All comments must include the name, address, and telephone number of the person commenting. Comments must be received before the end of the comment period. A copy of the proposed order is available upon request.

How to request a copy of the proposed order: Contact Edward A. Liggett, Virginia Department of Conservation and Recreation, 900 Natural Resources Drive, Suite 800-DCR, Charlottesville, VA 22903, telephone (434) 220-9067, FAX (804) 786-1798, or email ed.liggett@dcr.virginia.gov.

Contact Information: David C. Dowling, Policy, Planning, and Budget Director, Virginia Soil and Water Conservation Board, 203 Governor Street, Suite 302, Richmond, VA 23219, telephone (804) 786-2291, FAX (804) 786-6141, or email david.dowling@dcr.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked 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.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.

ERRATA

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Regulations: **12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-140, 12VAC30-50-150, 12VAC30-50-180; adding 12VAC30-50-228, 12VAC30-50-491).**

12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (adding 12VAC30-60-180, 12VAC30-60-185).

12VAC30-80. Methods and Standards for Establishing Payment Rates; other Types of Care (adding 12VAC30-80-32).

12VAC30-120. Waivered Services (amending 12VAC30-120-310, 12VAC30-120-380).

Publication: 25:3 VA.R. 393 October 13, 2008.

Correction to Titles of Regulation:

Titles of Regulations should read as follows:

12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-141, 12VAC30-50-151, 12VAC30-50-181; adding 12VAC30-50-228, 12VAC30-50-461).

12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (adding 12VAC30-60-250, 12VAC30-60-255).

12VAC30-80. Methods and Standards for Establishing Payment Rates; other Types of Care (adding 12VAC30-80-32).

12VAC30-120. Waivered Services (amending 12VAC30-120-310, 12VAC30-120-380).

VA.R. Doc. No. R07-262

COMMON INTEREST COMMUNITY BOARD

Emergency Regulation

Title of Regulation: **18VAC48-20. Condominium Regulations.**

Publication: 25:5 VA.R. 1073-1094 November 10, 2008.

Correction to Emergency Regulation:

Change sections added to:

(adding 18VAC48-20-10 through 18VAC48-20-730).

DEPARTMENT OF TAXATION

Titles of Regulations: **23VAC10-10. Guidelines for Public Participation in Regulation Development and Promulgation (repealing 23VAC10-10-10 through 23VAC10-10-80).**

23VAC10-11. Public Participation Guidelines (adding 23VAC10-11-10 through 23VAC10-11-110).

Publication: 25:4 VA.R. 730-735 October 27, 2008.

Correction to Fast-Track Regulation:

Page 730, the deadline for public comment and the effective date of the regulation were incorrectly published. The dates should appear as follows:

Public Comments: Public comments may be submitted until December 26, 2008.

Effective Date: January 10, 2009.

VA.R. Doc. No. R09-1507

