



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**; **William R. Janis**; **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>).

April 2010 through January 2011

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
INDEX 2 Volume 26		
	April 2010	
26:17	April 7, 2010	April 26, 2010
26:18	April 21, 2010	May 10, 2010
26:19	May 5, 2010	May 24, 2010
26:20	May 18, 2010 (Tuesday)	June 7, 2010
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	July 2010	
26:21	June 2, 2010	June 21, 2010
26:22	June 16, 2010	July 5, 2010
26:23	June 30, 2010	July 19, 2010
26:24	July 14, 2010	August 2, 2010
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27:5	October 20, 2010	November 8, 2010
27:6	November 3, 2010	November 22, 2010
27:7	November 16, 2010 (Tuesday)	December 6, 2010
27:8	December 1, 2010	December 20, 2010
27:9	December 14, 2010 (Tuesday)	January 3, 2011
27:10	December 29, 2010	January 17, 2011

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

AIR POLLUTION CONTROL BOARD

Agency Decision

Initial Agency Notice

Title of Regulation: None specified.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Name of Petitioner: Kenneth C. Strong.

Nature of Petitioner's Request: The State Air Pollution Control Board has received a petition to promulgate a new regulation concerning ELF magnetic fields around outdoor overhead high-voltage electric power transmission lines. The petitioner states that an overhead high-voltage electric power transmission line conductor is a substance in the outdoor atmosphere that is or may be harmful to public health because of, but not limited to, the alternating motion of the conductor's electrons that establish an ELF magnetic field around the conductor. The petitioner asserts that ELF magnetic fields are possibly carcinogenic to humans, that a reasonable precaution against exposures to the magnetic fields is necessary, and practices that encourage proximity to overhead transmission lines should be discouraged.

The specific requested regulation is:

For any outdoor overhead electric power transmission line 115 kilovolts or more, the owners of underlying real property and the transmission line Company shall not grant permission for public recreational trails or public recreational areas within the Company's right-of-way or within an area typical of Company right-of-ways should no legal right-of-way agreement exist, except that necessary crossings are exempt from the rule.

A copy of the full petition is available from Ms. 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 karen.sabasteanski@deq.virginia.gov.

Agency's Plan for Disposition of the Request: In accordance with the board's public participation guidelines, the board will take public comment on the petition from April 26, 2010, through May 17, 2010.

Public comments may be submitted until May 17, 2010.

Agency Contact: Ms. 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 karen.sabasteanski@deq.virginia.gov.

VA.R. Doc. No. R10-51; Filed April 5, 2010, 1:03 p.m.

Title of Regulation: 9VAC25-260. Water Quality Management Planning Regulation.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Name of Petitioner: Town of Urbanna.

Nature of Petitioner's Request: To amend the State Water Quality Standards Regulation (9VAC25-260) to designate Urbanna Creek from its mouth to its headwaters and all tributaries as Exceptional State Waters (Tier 3).

Agency Decision: Request denied.

Statement of Reasons for Decision: The petition for designating Urbanna Creek and its tributaries as Exceptional State Waters was denied. In order to be designated an Exceptional State Water, a water body must meet certain eligibility criteria. The nominated water body must exhibit an exceptional environmental setting and either support an exceptional aquatic community or support exceptional recreational opportunities that do not require modification of the existing natural setting. Though the general environs of the creek are pleasant and the area rich in history and local culture, the result of the site visit was that Urbanna Creek does not meet the crucial eligibility criteria of possessing an exceptional environmental setting for the following reasons:

- The natural features of the basin do not significantly contribute to the overall appearance of Urbanna Creek. It is comparable in appearance to many of the small coastal streams of the lower Rappahannock River tidal estuary.
- The creek is not a national wild and scenic river nor is it an integral component of any federal or state park, wildlife refuge, or wildlife management area. The only other Exceptional State Water designation in Virginia tidal waters (Ragged Island Creek) benefits from being part of a wildlife management area on one side of the water body and surrounded by a wide expanse of marsh on the other side. These factors have an isolating effect and provide buffering from development and anthropogenic impacts.
- The creek and its environs are not remote or undeveloped but rather characterized as a suburban/urban, developing area. Access to the entirety of the tidal portion of the creek is readily available to motorized boats and jet skis.

Agency Contact: David C. Whitehurst, Environmental Specialist I, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4116, or email david.whitehurst@deq.virginia.gov.

VA.R. Doc. No. R10-25; Filed April 7, 2010, 9:42 a.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Health intends to consider promulgating the following regulations: **12VAC5-613, Regulations for Alternative Onsite Sewage Systems**. The purpose of the proposed action is to implement Chapter 220 of the 2009 Acts of Assembly by setting performance and horizontal setback requirements, as well as system operation and maintenance requirements, for alternative onsite sewage systems.

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

Statutory Authority: § 32.1-164 of the Code of Virginia; Chapter 220 of the 2009 Acts of Assembly.

Public Comment Deadline: May 26, 2010.

Agency Contact: Allen Knapp, Director, Division of Onsite Sewage, Water Services, Environmental Engineering, and Marina Programs, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7470, or email allen.knapp@vdh.virginia.gov.

VA.R. Doc. No. R10-2164; Filed April 7, 2010, 10:29 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 HUMAN RESOURCE MANAGEMENT

Final Regulation

REGISTRAR'S NOTICE: The Department of Human Resource Management is claiming an exemption 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 Department of Human Resource Management will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **1VAC55-30. Long-Term Care Regulations (repealing 1VAC55-30-10 through 1VAC55-30-90).**

Statutory Authority: § 2.2-1208 of the Code of Virginia.

Effective Date: May 26, 2010.

Agency Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Bldg., 13th Floor, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231, or email charles.reed@dhrm.virginia.gov.

Summary:

The Department of Human Resource Management's regulations relating to the Long-Term Care Program for state and local employees are being repealed because the administration of this plan was transferred to the Virginia Retirement System as provided in Chapter 568 of the 2008 Acts of Assembly.

VA.R. Doc. No. R10-2359; Filed March 26, 2010, 11:39 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Proposed 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: **9VAC25-810. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Coin-Operated Laundry (amending 9VAC25-810-10, 9VAC25-810-20, 9VAC25-810-40 through 9VAC25-810-70).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act (33 USC § 1251 et seq.).

Public Hearing Information:

May 26, 2010 - 1 p.m. - Department of Environmental Quality, Central Office, 2nd Floor Conference Room A, 629 East Main Street, Richmond, VA

Public Comment Deadline: June 25, 2010.

Agency Contact: George E. Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4067, FAX (804) 698-4032, or email george.cosby@deq.virginia.gov.

Summary:

The proposed changes amend and reissue the existing general permit that expires on February 8, 2011. The general permit establishes limitations and monitoring requirements for point source discharge of treated wastewaters from coin-operated laundries to surface waters. Coin-operated laundry means any self-service facility where the washing of clothes is conducted as designated by Standard Industrial Classification Code 7215. It does not mean facilities that engage in dry cleaning.

The general permit is being reissued in order to continue making it available for coin-operated laundries after

Regulations

February 8, 2011. This reissuance of an existing regulation contains changes to the regulation.

CHAPTER 810

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR COIN- OPERATED LAUNDRY LAUNDRIES

9VAC25-810-10. Definitions.

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

"Coin-operated laundry" means any self-service facility where the washing of clothes is conducted as designated by SIC 7215. It does not mean facilities that engage in dry cleaning.

"Total maximum daily load" or "TMDL" means a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards and an allocation of that amount to the pollutant's sources. A TMDL includes wasteload allocations (WLAs) for point source discharges, and load allocations (LAs) for nonpoint sources or natural background or both, and must include a margin of safety (MOS) and account for seasonal variations.

9VAC25-810-20. Purpose.

This general permit regulation governs the discharge of wastewater from coin-operated ~~laundry~~ laundries to surface waters. No discharge of pollutants from coin-operated laundries is allowed except when in compliance with the conditions of this permit.

9VAC25-810-40. Effective date of the permit.

This general permit will become effective on February 8, ~~2006~~ 2011. This general permit will expire ~~five years after February 8, 2006~~ on February 7, 2016. This general permit is effective for any covered owner upon compliance with all the provisions of 9VAC25-810-50 ~~and the receipt of this general permit.~~

9VAC25-810-50. 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 9VAC25-810-60, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-810-70, and provided that: the department has not notified the applicant that authorization is denied in accordance with subsection B of this section.

~~1. Individual permit.~~ B. The department will notify an applicant of denial of authorization in the event of any of the following:

1. The owner ~~has not been~~ is required to obtain an individual permit according to 9VAC25-31-170 B 3-;

2. ~~Prohibited discharge locations. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other~~ Other board regulations or policies ~~that~~ prohibit such discharges-;

3. Central sewage facilities are reasonably available;

4. The discharge violates the antidegradation policy in the Water Quality Standards at 9VAC25-260-30; or

The board has established a "total maximum daily load" (TMDL) that has been approved by EPA prior to the term of this permit, and the TMDL 5. An applicable TMDL (board-adopted, EPA-approved or EPA-imposed) contains a WLA for the facility, unless this general permit specifically addresses the TMDL pollutant of concern and meets the TMDL WLA.

~~B-~~ C. Compliance with this general permit constitutes compliance with the federal Clean Water Act, the State Water Control Law, and applicable regulations under either with the exceptions stated in 9VAC25-31-60 of the VPDES permit regulation. 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.

9VAC25-810-60. Registration statement.

The owner shall file a complete VPDES general permit registration statement for a coin-operated laundry. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing operation of the new discharge. Any owner of an existing coin-operated laundry 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 coin-operated laundry 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 mailing address, owner name and mailing address ~~and~~ telephone number, and email (if available);

2. Facility ~~location~~ street address (if different from mailing address);

3. Facility operator name, address ~~and~~ telephone number, and email (if available) if different than owner;

4. Does the facility discharge to surface waters? Name of receiving stream if "yes" and if "no," describe the discharge;

5. Does the facility have a current VPDES Permit? Permit number if "yes";

6. Are there central sewage facilities available to serve this facility?;

~~6.~~ 7. A USGS topographic map or computer-generated map showing the facility, discharge location, and receiving stream;

~~7. Provide a brief description of the type of coin-operated laundry;~~

8. Number of laundry machines and an estimate of the average flow rate (million gallons per day);

9. Facility line (water balance) drawing;

10. ~~Treatment information~~ Description of wastewater treatment;

11. Information on use of chemicals at the facility; and

12. 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.

9VAC25-810-70. 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.: VAG72

Effective Date:

Expiration Date:

GENERAL PERMIT FOR COIN-OPERATED LAUNDRY LAUNDRIES

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

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of coin-operated laundries 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 coin-operated laundry ~~taken at~~ from outfall(s):

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency***	Sample Type
Flow (mgd)	NA	NL	1/Quarter	Estimate
pH (S.U.)	6.0*	9.0*	1/Quarter	Grab
TSS (mg/l)	NA	60	1/Quarter	Grab
BOD ₅ (mg/l)	NA	60*	1/Quarter	Grab
Dissolved Oxygen (mg/l)	6.0*	NA	1/Quarter	Grab
Temperature °C	NA	32**	1/6 Months	Immersion Stabilization
Total Residual Chlorine (ug/l) (mg/l)	NA	41* .011*	1/Quarter	Grab
E. Coli	NA	235 n/100 ml	1/6 Months	Grab

Regulations

NL - No Limitation, monitoring requirement only

NA - Not applicable

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

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

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

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

B. Special conditions.

1. The permittee shall notify the department as soon as they know or have 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; 500 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.

2. Operation and maintenance manual requirement. The permittee shall develop an Operations 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 for staff approval within 90

days of February 8, ~~2006~~ 2011, or completion of construction. If an approved O & M Manual is already on file with DEQ, the permittee shall review the existing 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 in accordance with the approved O & M Manual. This manual shall include, but not necessarily be limited to, the following items, as appropriate:

- a. Techniques to be employed in the collection, preservation, and analysis of effluent samples;
- b. Discussion of best management practices, if applicable;
- c. ~~Treatment system design, treatment~~ system operation, routine preventive maintenance of units within the treatment system, critical spare parts inventory, and recordkeeping; and
- d. A sludge/solids disposal plan.

3. ~~The permit prohibits adding~~ permittee shall not add chemicals to the water or waste that may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the ~~Department of Environmental Quality~~ department.

4. ~~There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

~~5. 4. Compliance Reporting under Part I A (use for permit with water quality based limits for toxics or conventional~~

pollutants in Part I A. Modify this example as needed for effluent parameters in the permit).

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

Effluent Characteristic	Quantification Level
BOD ₅	5 mg/l
TSS	1.0 mg/l
Chlorine	0.10 mg/l

~~b. Reporting. Daily Maximum Compliance with the daily maximum limitations and/or reporting requirements for the parameters listed in Part I A and B shall be determined as follows: All concentration data below the QL listed in subdivision a 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 concentration is <QL, then report "<QL" for the quantity. Otherwise use the calculated concentration. e. Any single datum required shall be reported as "<QL" if it is less than the QL in subdivision a. Otherwise the numerical value shall be reported.~~

~~d. c. Monitoring results shall be reported using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 5 always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.~~

~~6. 5. 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; the nature of the discharge; and the facility's VPDES general permit number.~~

~~7. 6. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.~~

~~7. The discharges authorized by this permit shall be controlled as necessary to meet applicable water quality standards.~~

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 US Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

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 tenth 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.

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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 US 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.

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 effects 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 which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass; and

- b. Any upset which causes a discharge to surface waters.
- 2. A written report shall be submitted within five days and shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
 - c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under this subsection 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 subdivisions 1 or 2 of this subsection, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in subdivision 2 of this subsection.

NOTE: The immediate (within ~~24 hours~~ 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone 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 means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- 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:

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a. The authorization is made in writing by a person described in subdivision 1 of this subsection;

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to 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 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 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 that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 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 ten 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 proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, 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

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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. R09-1877; Filed April 7, 2010, 11:34 a.m.

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TITLE 12. HEALTH

STATE BOARD OF HEALTH

Emergency Regulation

Title of Regulation: **12VAC5-613. Emergency Regulations for Alternative Onsite Sewage Systems (adding 12VAC5-613-10 through 12VAC5-613-180).**

Statutory Authority: § 32.1-164 of the Code of Virginia; Chapter 220 of the 2009 Acts of Assembly.

Effective Dates: April 7, 2010, through April 6, 2011.

Agency Contact: Allen Knapp, Director, Division of Onsite Sewage, Water Services, Environmental Engineering, and Marina Programs, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7470, or email allen.knapp@vdh.virginia.gov.

Preamble:

The regulations establish performance, operation, and monitoring requirements and horizontal setbacks for alternative onsite sewage systems (AOSS) necessary to protect public health and the environment. The new regulations are supplemental to existing 12VAC5-610, Sewage Handling and Disposal Regulations (SHDR), which contains permitting and other requirements for

onsite sewage systems, including AOSS. The new regulations require that a licensed operator visit each AOSS on a mandated frequency and file a report. The second enactment of Chapter 220 of the 2009 Acts of Assembly requires the State Board of Health to promulgate these regulations as emergency regulations.

The needs and goals for these regulations fall into three conceptual areas:

1. The current performance requirements contained in the SHDR are inadequate for AOSS.

2. Statutory changes in 2008 (§ 32.1-163.6 of the Code of Virginia) allow licensed professional engineers to design AOSS that are not required to comply with the SHDR. Instead, these designs must be compliant with performance requirements established by the board. Since current performance requirements are inadequate, these regulations seek to establish measurable performance requirements appropriate for all AOSS, including the engineered designs under § 32.1-163.6 of the Code of Virginia.

3. Proper operation and maintenance are essential to ensure that AOSS function as designed.

In developing the emergency regulations, the agency sought stakeholder input through an ad hoc advisory group. Also, as required by Chapter 220, a 30-day public comment period was noticed in 26:2 VA.R. 290 September 28, 2009, and ended on October 28, 2009. A summary of the public comments is available for public inspection by contacting the agency contact identified in this notice or at the Office of the Registrar of Regulations, General Assembly Building, 910 Capitol Street, 2nd Floor, Richmond, VA 23219.

CHAPTER 613

EMERGENCY REGULATIONS FOR ALTERNATIVE ONSITE SEWAGE SYSTEMS

Part I

General

12VAC5-613-10. Definitions.

The following terms used in this chapter shall have the following meanings. Terms not defined in this chapter shall have the meanings prescribed in Chapter 6 of Title 32.1 of the Code of Virginia or in 12VAC5-610-20 et seq. (or successor regulation) unless the plain reading of the language requires a different meaning.

"Alternative onsite sewage system," "AOSS," or "alternative onsite system" means a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

"Biochemical oxygen demand" (BOD) is the measure of the amount of oxygen required by bacteria for stabilizing material that can be decomposed under aerobic conditions.

"BOD₅" or "biochemical oxygen demand, five-day" means the quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five-day incubation period; expressed in milligrams per liter (mg/L).

"Conventional onsite sewage system" means a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

"Disinfection" means a process used to destroy or inactivate pathogenic microorganisms in wastewater to render them noninfectious.

"Dissolved oxygen (DO)" means the concentration of oxygen dissolved in effluent, expressed in mg/l or as percent saturation, where saturation is the maximum amount of oxygen that can theoretically be dissolved in water at a given altitude and temperature.

"Division" means the Division of Onsite Sewage, Water Services, Environmental Engineering, and Marina Programs within the department or equivalent.

"Effluent" means partially or fully treated sewage flowing from a treatment unit, treatment system, or septic tank.

"General approval" means that a treatment unit has been approved for TL-2 in accordance with 12VAC5-610-800 or for TL-3 pursuant to a testing protocol approved by the Division, provided that at least 20 units have been tested for four consecutive quarters and monitored in accordance with the approved testing protocol.

"Ksat" means saturated hydraulic conductivity.

"Large AOSS" means an AOSS that serves more than three single-family residences or a nonresidential facility with an average daily sewage flow in excess of 1,000 gpd.

"Limiting feature" means a feature of the soil that limits or intercepts the vertical movement of water, including seasonal, perched, or permanent water table, pans, soil restrictions, and pervious or impervious bedrock.

"Local health department" means the local health department having jurisdiction over the AOSS.

"MGD" means million gallons per day.

"Maintenance" means performing adjustments to equipment and controls and in-kind replacement of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, or other like components. Maintenance includes pumping the tanks or cleaning the building sewer on a periodic basis. Maintenance shall not include replacement of tanks,

drainfield piping, distribution boxes, or work requiring a construction permit and installer.

"Operate" means the act of making a decision on one's own volition (i) to place into or take out of service a unit process or unit processes or (ii) to make or cause adjustments in the operation of a unit process at a treatment works.

"Operation" means the biological, chemical, and mechanical processes of transforming sewage or wastewater to compounds or elements and water that no longer possess an adverse environmental or health impact.

"Operator" means any individual employed or contracted by any owner, who is licensed or certified under Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 as being qualified to operate, monitor, and maintain an alternative onsite sewage system.

"Organic loading rate" means the biodegradable fraction of chemical oxygen demand (biochemical oxygen demand, biodegradable FOG, and volatile solids) delivered to a treatment component in a specified time interval expressed as mass per time or area, e.g., pounds per day or pounds per cubic foot per day (pretreatment); pounds per square foot per day (infiltrative surface or pretreatment). For a typical residential system these regulations assume that biochemical loading (BOD₅) equals organic loading.

"Owner" means the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"pH" means the measure of the acid or base quality of water that is the negative log of the hydrogen ion concentration.

"Project area" means one or more recorded lots, or a portion of a recorded lot, owned by the owner of an AOSS or controlled by easement upon which an AOSS is located or which is contiguous to a soil treatment area and which is designated as such for purposes of compliance with the performance requirements of this chapter. In the case of an AOSS serving multiple dwellings, the project area may include multiple recorded lots as in a subdivision.

"Project area boundary" means the limits of the three-dimensional space defined when the horizontal component is the project area, the upper vertical limit is the ground surface in and around the AOSS, and the lower vertical limit is the vertical separation required by this chapter, a permeability limiting feature, or the permanent water table.

"Relationship with an operator" means an agreement between the owner of an AOSS and operator wherein the operator has been retained by the owner to operate the AOSS in accordance with the requirements of this chapter.

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"Reportable incident" means one or more of the following: an alarm event, any failure to achieve one or more performance requirements, removal of solids, replacement of media, or replacement of any major component of the system including electric and electronic components, pumps, blowers, and valves. Routine maintenance of effluent filters is not included.

"Saturated hydraulic conductivity" means a quantitative measure of a saturated soil's capacity to transmit water when subjected to a hydraulic gradient.

"Settleable solids" means a measure of the volume of suspended solids that will settle out of suspension within a specified time, expressed in milliliters per liter (mL/L).

"Sewage Handling and Disposal Regulations" means 12VAC5-610-20 et seq. or successor regulation adopted by the Board of Health.

"Small AOSS" means an AOSS that serves no more than three single-family residences or a nonresidential facility with an average daily sewage flow of less than or equal to 1,000 gpd.

"Subsurface drainfield" means a system installed within the soil and designed to accommodate treated sewage from a treatment works.

"Soil treatment area" means the physical location in or on the naturally occurring soil medium where final treatment and dispersal of effluent occurs; includes subsurface drainfields, drip dispersal fields, and spray fields.

"Total nitrogen" means the measure of the complete nitrogen content of wastewater including all organic, inorganic, and oxidized forms expressed in mg/l as nitrogen.

"Total residual chlorine" (TRC) is a measure of the combined available chlorine and the free available chlorine available in a sample after a specified contact time.

"Total suspended solids" means a measure of the mass of all suspended solids in a sample typically measured in milligrams per liter (mg/L).

"Treatment level 2 effluent" or "TL-2 effluent" means effluent that has been treated to produce BOD₅ and TSS concentrations equal to or less than 30 mg/L each on a 30-day average basis.

"Treatment level 3 effluent" or "TL-3 effluent" means effluent that has been treated to produce BOD₅ and TSS concentrations equal to or less than 10 mg/L each on a 30 day average basis.

"Treatment unit" or "treatment system" means a method, technique, equipment, or process other than a septic tank or septic tanks used to treat sewage to produce effluent of a specified quality before the effluent is discharged to a soil treatment area.

"Turbidity" means the relative clarity of effluent as a result of the presence of varying amounts of suspended organic and inorganic materials or color.

"Vertical separation" means the vertical distance between the point of effluent application to the soil and a limiting feature of the site of the soil treatment area such as seasonal high ground water, bedrock, or other restriction.

12VAC5-613-20. Purpose and authority.

Pursuant to the requirements of §§ 2.2-4011, 32.1-12 and 32.1-164 et seq. of the Code of Virginia and Chapter 220 of the 2009 Acts of Assembly, the Board of Health has promulgated this chapter to:

1. Establish a program for regulating the operation and maintenance of alternative onsite sewage systems;
2. Establish performance requirements for alternative onsite sewage systems;
3. Establish horizontal setbacks for alternative onsite sewage systems that are necessary to protect public health and the environment;
4. Discharge the board's responsibility to supervise and control the safe and sanitary collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems and treatment works as they affect the public health and welfare;
5. Protect the quality of surface water and ground water;
6. Guide the State Health Commissioner in determining whether a permit or other authorization for an alternative onsite sewage system shall be issued or denied; and
7. Inform owners, applicants, onsite soil evaluators, system designers, and other persons of the requirements for obtaining a permit or other authorization for an alternative onsite sewage system.

12VAC5-613-30. Applicability and scope.

A. As provided in this section, this chapter governs the design, construction, and operation of AOSS.

B. Part II of this chapter, Performance Requirements, applies only to alternative onsite sewage systems permitted pursuant to applications filed on or after the effective date of this chapter.

C. Part III of this chapter, Operation and Maintenance Requirements, shall apply to all AOSS, including those in operation prior to the effective date of this chapter.

D. The laboratory sampling requirements of this chapter apply only to AOSS permitted pursuant to applications filed on or after the effective date of this chapter.

E. Any AOSS in operation prior to the effective date of this chapter is subject to the performance requirements contained

in the regulations in effect at the time the system was permitted.

F. AOSS designed, constructed, permitted, and operated in accordance with this chapter and the prescriptive design, location, and construction criteria of 12VAC5-610-20 et seq. and the policies and procedures of the department are presumed to comply with the ground water quality requirements of 12VAC5-613-70 A 11.

G. This chapter shall be effective for 12 months following the effective date, unless extended in accordance with the provisions of § 2.2-4011 of the Code of Virginia.

H. AOSS designed pursuant to § 32.1-163.6 of the Code of Virginia are subject to the following requirements:

1. Performance requirements of this chapter;
2. Horizontal setback requirements of this chapter;
3. Operation, maintenance, inspection, and sampling requirements of this chapter; and
4. Standard engineering practice.

12VAC5-613-40. Relationship to other regulations.

This chapter is supplemental to 12VAC5-610-20 et seq. (the Sewage Handling and Disposal Regulations) and supersedes Table 5.4 of the SHDR for all AOSS designed to disperse TL-2 or TL-3 effluent. Table 5.4 of the Sewage Handling and Disposal Regulations shall govern the design of any AOSS designed to disperse septic tank effluent to the soil treatment area. All procedures pertaining to enforcement, the minimum requirements for filing applications, and the processing of applications, including appeals, and case decisions contained in the Sewage Handling and Disposal Regulations (or successor regulation) shall apply to the permitting of AOSS under this chapter. In any case where there is a conflict between this chapter and the Sewage Handling and Disposal Regulations (or successor regulation), this chapter shall be controlling.

12VAC5-613-50. Violations, enforcement.

A. Failure by any person or AOSS to achieve one or more performance requirements prescribed by this chapter, to accomplish any mandated visit, or to perform any operation, maintenance, monitoring, sampling, reporting, or inspection requirement of this chapter, either individually or in combination, shall be a violation of this chapter.

B. Nothing in this chapter shall be construed to limit the authority of the board, the commissioner, or the department to enforce this chapter or the requirements of 12VAC5-610-20 et seq. (or successor regulation).

C. In accordance with the SHDR and § 32.1-25 of the Code of Virginia, the commissioner may take such samples and conduct such monitoring, including ground water samples and monitoring, he deems necessary to enforce this chapter.

D. The board, commissioner, and department may use any lawful means to enforce this chapter, including voiding a construction or operation permit, imposition of civil penalties, or criminal prosecution.

12VAC5-613-60. Operation permits, land records.

A. The department shall not issue an operation permit for an AOSS unless the owner has established a relationship with an operator and provided the operator's name and license number to the local health department. The owner shall maintain a relationship with an operator during periods when the AOSS is in operation.

B. The department shall not issue an operation permit for an AOSS until the owner has recorded an instrument which complies with § 15.2-2157 E of the Code of Virginia in the land records of the appropriate circuit court.

C. When all or part of the project area is to be used in the management of nitrogen from a large AOSS the owner shall record legal documentation in the land records of the circuit court having jurisdiction over the site of the AOSS. Such documentation shall be in a form approved by the division and shall protect and preserve the land area in accordance with the management methods established by the designer.

Part II

Performance Requirements

12VAC5-613-70. Performance requirements-general.

A. All AOSS designed, constructed and operated pursuant to this chapter shall comply with the following performance requirements:

1. The presence of raw or partially treated sewage on the ground's surface or in adjacent ditches or waterways is prohibited. Spray irrigation systems and other systems utilizing surface application of treated effluent require, by design, the presence of effluent on the surface for short periods of time. With these systems complete absorption of effluent must occur before the application of another dose.
2. The exposure of insects, animals, or humans to raw or partially treated sewage is prohibited.
3. The backup of sewage into plumbing fixtures is prohibited.
4. All treatment units and treatment systems shall be designed for the anticipated wastewater strength and peak flow.
5. All treatment units and treatment systems shall be designed to produce a minimum of TL-2 effluent.
6. Dosing of the treatment unit or treatment system shall accommodate the design peak flow within the treatment unit's rated capacity.

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7. The following performance requirements govern the dispersal of effluent in the soil treatment area:

a. Trench bottom hydraulic loading rates for pressure-dosed systems shall not exceed the values in Table 1. The designer must reduce loading rates for gravity dosed systems. Area hydraulic loading rates for systems such as drip dispersal, spray irrigation, and mounds must be less than the trench bottom values in Table 1 and reflect standard engineering practice.

b. Adherence to this performance requirement does not assure or guarantee that other performance requirements of this chapter, including effluent dispersal or ground water quality, will be met. It is the designer's responsibility to ensure that the proposed design is adequate to achieve all performance requirements of this chapter. The designer is responsible for reducing loading rates according to the features and properties of the soils in the soil treatment area.

Table 1
Maximum Trench Bottom Hydraulic Loading Rates

Percolation Rate (MPI)	TL-2 Effluent (gpd/sf)	TL-3 Effluent (gpd/sf)
up to 15	1.8	3.0
20-25	1.4	2.0
30-45	1.2	1.5
50-90	0.8	1.0
Greater than 90	0.4	0.5

8. Septic tank effluent may only be discharged to a soil treatment area when the vertical separation to a limiting feature consists of at least 18 inches of naturally occurring, in-situ soil. AOSS designed to disperse septic tank effluent require at least 12 inches of soil cover in the soil treatment area.

9. TL-3 effluent and disinfection are required whenever one or more of the following apply:

a. There is less than 12 inches of vertical separation to a limiting feature in the soil treatment area.

b. There is less than 6 inches of vertical separation to a limiting feature in the naturally occurring soil below the soil treatment area, or

c. The AOSS utilizes surface application of effluent, such as spray irrigation.

10. For any small AOSS where the vertical separation to a permeability-limiting feature is less than 18 inches below the soil treatment area and for any large AOSS, regardless of site constraints, the designer shall provide calculations to demonstrate that water mounding will not adversely

affect the functioning of the soil treatment area, that hydraulic failure will not occur, and that adequate vertical separation will be maintained to ensure the performance requirements of this chapter are met. For large AOSS the department may require the owner to monitor the degree of saturation beneath the soil treatment area.

11. The AOSS shall not pose a greater risk of ground water pollution than systems otherwise permitted pursuant to 12VAC5-610-20 et seq. After wastewater has passed through a treatment unit or septic tank and passed through the soil in the soil treatment area, the concentration of fecal coliform organisms must not exceed 200 cfu/100 ml at the lower vertical limit of the project area boundary. When disinfection is required, the effluent quality prior to dispersal to the soil treatment area must not exceed 200 cfu/100 ml. When chlorine is used for disinfection, 30-minute contact time at average daily flow is required with a TRC following the contact tank not less than 1 mg/l.

12. The following minimum effluent and site condition requirements must be met:

Table 2
Minimum Effluent Requirements for Vertical Separation to Limiting Features

Vertical separation	Effluent Description
≥18" (must be naturally occurring soils)	Septic, TL-2, or TL-3
<18" to 12" (requires minimum 6" of naturally occurring soils)	TL-2 or TL-3
<12" (organic loading rate not to exceed 2.1×10^{-4} BOD lb/day/sf)	TL-3 and disinfection

13. Each large AOSS must comply with a total nitrogen limit of 5 mg/l as nitrogen at the project area boundary. Prior to the issuance of a construction permit, the designer shall demonstrate compliance with this requirement through modeling or other calculations. Such demonstration may incorporate multiple nitrogen removal methods such as pretreatment, vegetative uptake (only for AOSS with shallow soil treatment areas), denitrification, and other viable nitrogen management methods.

14. The AOSS shall be designed so that all components are of sufficient structural integrity to minimize the potential of physical harm to humans and animals.

15. The AOSS shall be designed to minimize noise, odor, or other nuisances at the property boundary.

16. The conveyance system for any AOSS shall be designed and installed with sufficient structural integrity to resist inflow and infiltration and to maintain forward flow.

17. Spray irrigation systems are limited to AOSS with average daily sewage flows of 1,000 gpd or less.

18. For purposes of assisting owners in obtaining such funds as may be available for reducing nitrogen discharges from AOSS, including Betterment Loans and grants from the Water Quality Improvement Fund, the department shall evaluate AOSS designs and establish the nitrogen-reducing capacities thereof.

19. When sand, soil, or soil-like material is used to increase the vertical separation, the designer shall specify methods and materials that will achieve the performance requirements of this chapter.

B. The title page of plans for an AOSS shall state that the plans are being submitted pursuant to § 32.1-163.6 of the Code of Virginia. Where this statement is not included on the title page, the department will review the plans pursuant to the Sewage Handling and Disposal Regulations.

C. Each application under § 32.1-163.6 of the Code of Virginia shall include a site characterization report using the Field Book for Describing and Sampling Soils, Version 2.0, National Soil Survey Center, Natural Resources Conservation Service, U.S. Department of Agriculture, September 2002. The report may contain such information that the designer deems appropriate; however, it must describe the following minimum attributes of the site of the proposed soil treatment area:

1. Depth to limiting feature(s), including seasonal or perched water table, pans, restrictions, pervious or impervious bedrock;

2. Slope of the project area;

3. Ksat or percolation rate at the proposed installation depth and at depths below the soil treatment area to demonstrate compliance with this chapter. Ksat or percolation rate may be estimated for small AOSS; the Ksat or percolation rate must be measured using an appropriate device for large AOSS;

4. Landscape or landform; and

5. Project area, along with those physical features in the vicinity of the proposed AOSS normally associated with plans for onsite sewage systems, including streams, bodies of water, roads, utilities, wells and other drinking water sources, existing and proposed structures, and property boundaries.

D. All large AOSS shall discharge only TL-2 or TL-3 effluent to the soil treatment area; septic tank effluent is prohibited for large AOSS.

E. All plans and specifications for AOSS shall be properly sealed by a professional engineer licensed in the Commonwealth pursuant to Title 54.1 of the Code of Virginia unless such plans are prepared pursuant to an exemption from

the licensing requirements of Title 54.1 of the Code of Virginia. When plans and specifications are prepared pursuant to an exemption, the designer shall provide a certification statement, in a form approved by the Division, identifying the specific exemption under which the plans and specifications were prepared and certifying that he is authorized to prepare such plans pursuant to the exemption.

12VAC5-613-80. Performance requirements-laboratory sampling and monitoring.

A. Laboratory sampling is not required for AOSS designed to discharge septic tank effluent to the soil treatment area.

B. All effluent samples must be taken at the end of all treatment, prior to the point where the effluent is discharged to the soil treatment area.

C. All sampling and 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 chapter.

D. The owner of each small AOSS is required to submit an initial grab sample of the effluent from the treatment unit and have the sample analyzed in accordance with 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency within the first 180 days of operation. Thereafter, if the treatment unit has received general approval, a grab sample is required once every five years. Samples shall be analyzed for BOD₅ and, if disinfection is required, fecal coliform. Treatment systems utilizing chlorine disinfection may alternatively sample for TRC instead of fecal coliform. Sample results shall be received by the local health department by the 15th of the month following the month in which the sample was taken.

E. For small AOSS that utilize a treatment unit that has not received general approval, after the initial sample required by subsection D, four additional grab samples of the effluent from the treatment unit are to be collected, analyzed, and submitted to the department within the first two years of operation and annually thereafter. The interval for collecting the samples shall not be less than quarterly or more than semiannually. Sample results shall be received by the local health department by the 15th of the month following the month in which the sample was taken.

F. Sampling and monitoring requirements for AOSS treatment systems with flows greater than 1,000 gpd are contained in Table 3.

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Table 3
Sampling and Monitoring for Large AOSS

<u>PLANT SIZE</u>	<u>>2.01 MGD</u>	<u>1.0-2.0 MGD</u>	<u>0.101-0.999 MGD</u>	<u>0.041-0.1 MGD</u>	<u>0.011-0.04 MGD</u>	<u>0.0011-0.010 MGD</u>
<u>Flow</u>	<u>Totalizing, Indicating & Recording</u>	<u>Totalizing, Indicating & Recording</u>	<u>Totalizing, Indicating & Recording</u>	<u>Totalizing, Indicating & Recording</u>	<u>Measured</u>	<u>Estimate</u>
<u>BOD₅, TSS</u>	<u>24-HC 1/Day</u>	<u>24-HC 5 Days/Wk</u>	<u>8-HC 3 Days/Wk</u>	<u>4-HC 1 Day/Wk</u>	<u>Grab quarterly</u>	<u>Grab 1/yr</u>
<u>Total Nitrogen</u>	<u>24-HC weekly</u>	<u>24-HC weekly</u>	<u>8-HC monthly</u>	<u>4-HC quarterly</u>	<u>Grab quarterly</u>	<u>Grab 1/yr</u>
<u>TRC, Contact Tank**</u>	<u>Grab daily</u>	<u>Grab daily</u>	<u>Grab weekly</u>	<u>Grab weekly</u>	<u>Grab weekly</u>	<u>Grab 1/yr</u>
<u>Fecal Coliform***</u>	<u>Grab weekly</u>	<u>Grab weekly</u>	<u>Grab monthly</u>	<u>Grab monthly</u>	<u>Grab quarterly</u>	<u>Grab 1/yr</u>

HC – hourly, flow weighted composite samples

** if disinfection required and chlorine used

***if disinfection required and another disinfecting process such as ultraviolet light is used

12VAC5-613-90. Performance requirements-field measurements, sampling, and observations.

A. For treatment units or treatment systems with flows up to 0.04 MGD field measurements, sampling, and observations shall be performed at each mandated visit and during any reportable incident response visit as recommended in Table 4. The operator shall report the results of all field measurements, sampling, and observations.

Table 4
Recommended Field Measurements, Sampling, and Observations AOSS up to 0.04 MGD

<u>Parameter</u>	<u>Average Daily Flow (gpd)</u>		
	<u>≤ 1,000 gpd</u>	<u>0.0011-0.010 MGD</u>	<u>0.011-0.04 MGD</u>
<u>Flow</u>	<u>Required (measured or estimated)</u>	<u>Required</u>	<u>Required</u>
<u>pH</u>	<u>Operator discretion</u>	<u>Required</u>	<u>Required</u>
<u>TRC (After contact tank)*</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>

<u>DO (aeration tank)*</u>	<u>Operator discretion</u>	<u>Required</u>	<u>Required</u>
<u>Odor*</u>	<u>Operator discretion</u>	<u>Required</u>	<u>Required</u>
<u>Turbidity (visual)*</u>	<u>Operator discretion</u>	<u>Required</u>	<u>Required</u>
<u>Settleable solids*</u>	<u>Operator discretion</u>	<u>Required</u>	<u>Required</u>

*Not required for systems designed to discharge septic tank effluent

B. For treatment systems with flows greater than 0.04 MGD the operator shall follow the operational and control testing requirements of the O&M Manual.

Part III
Operation and Maintenance

12VAC5-613-100. Operator responsibilities.

A. Whenever an operator performs a visit that is required by this chapter or observes a reportable incident he shall document the results of that visit in accordance with 12VAC5-613-170.

B. Whenever an operator performs a visit that is required by this chapter, he shall do so in such a manner as to accomplish the various responsibilities and assessments required by this chapter using visual and other observations, laboratory and field tests he deems appropriate and as required by this chapter.

C. Each operator shall keep a log for each AOSS for which he is responsible. The operator shall provide a copy of the log

to the owner. In addition, the operator shall make the log available to the department upon request. At a minimum, the operator shall record the following items in the log:

1. Results of all testing and sampling;
2. Reportable incidents;
3. Maintenance, corrective actions, and repair activities that are performed other than for reportable incidents;
4. Recommendations for repair and replacement of system components;
5. Sludge or solids removal; and
6. The date reports were given to the owner.

D. At all times when performing activities pursuant to this chapter, the operator is responsible for the entire AOSS, including treatment components and soil treatment area components.

E. An operator shall notify the appropriate local health department when his relationship with an owner terminates.

12VAC5-613-110. Sludge and solids removal.

Any person who pumps or otherwise removes sludge or solids from any septic tank or treatment unit of an AOSS shall file a report with the appropriate local health department on a form approved by the division.

12VAC5-613-120. Owner responsibilities.

Owner responsibilities include the following:

1. Maintain a relationship with an operator;
2. Have the AOSS operated and maintained by an operator;
3. Have an operator visit the AOSS at the frequency required by this chapter;
4. Have an operator collect any samples required by this chapter;
5. Keep a copy of the log provided by the operator on the property where the AOSS is located, make the log available to the department upon request, and make a reasonable effort to transfer the log to any future owner;
6. Keep a copy of the Operation and Maintenance Manual (O&M Manual) for the AOSS on the property where the AOSS is located, make the manual available to the department upon request, and make a reasonable effort to transfer the O&M Manual to any future owner; and
7. Comply with the onsite sewage system requirements contained in local ordinances adopted pursuant to the Chesapeake Bay Preservation Act (§ 10.1-2100 et. seq.) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC10-20) when an AOSS is located within a Chesapeake Bay Preservation Area.

12VAC5-613-130. Operator requirements for AOSS with flows up to 0.04 MGD, minimum frequency of visits.

The owner of each AOSS shall have that AOSS visited by an operator in accordance with Table 5.

Table 5
Minimum Operator Visit Frequency for AOSS up to 0.04 MGD

<u>Avg. Daily Flow</u>	<u>Initial Visit</u>	<u>Regular visits following initial visit</u>
<u>≤ 1,000 gpd</u>	<u>Within 180 calendar days of the issuance of the operation permit</u>	<u>Every 12 Months</u>
<u>0.0011-0.010 MGD</u>	<u>First week of actual operation</u>	<u>Quarterly</u>
<u>0.011-0.04 MGD</u>	<u>First week of actual operation</u>	<u>Monthly</u>

12VAC5-613-140. Operator requirements for systems with flows greater than 0.04 MGD.

A. AOSS with average daily flows in excess of 0.04 MGD shall be attended by a licensed operator and manned in accordance with the recommendations specified in the Sewage Collection and Treatment Regulations for sewage treatment works (9VAC25-790).

B. In instances where the hours of attendance by a licensed operator are less than the daily hours the treatment works is to be manned by operating staff, a licensed operator is not required to be physically located at the treatment works site during the remaining designated manning hours, provided that the licensed operator is able to respond to requests for assistance in a satisfactory manner, as described in the O&M Manual.

C. Attendance by the operator may not be waived as suggested in the Sewage Collection and Treatment Regulations for sewage treatment works (9VAC25-790).

D. The department may reduce operator and/or staffing requirements when automatic monitoring, telemetry, or other electronic monitoring and/or process controls are employed. All reductions must be approved by the Division Director.

12VAC5-613-150. Operation and maintenance manual.

A. This chapter outlines minimum operation, maintenance, sampling, and inspection requirements. Operation, maintenance, sampling, and inspection schedules for some AOSS may exceed these minimum requirements, in which case the designer is responsible for determining such additional requirements based upon the proposed use, design

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flow, project area, loading rates, nitrogen removal, treatment level, and other factors.

B. Prior to the issuance of an operating permit, the owner shall have the designer submit an O&M Manual to the local health department. The designer shall provide a copy of the O&M manual to the owner. The department may issue a temporary operation permit for a period not to exceed 180 calendar days pending completion of the O&M Manual. Failure to submit the O&M Manual within the time frame provided under a temporary operation permit shall be deemed a violation of this chapter.

C. The O&M Manual shall be written to be easily understood by any potential owner and shall include the following minimum items:

1. A list of the components comprising the AOSS with dimensioned site layout and contact numbers for replacement parts for each unit process;
2. A list of any control functions and how to use them;
3. All operation, maintenance, sampling, and inspection schedules, including any requirements that exceed the minimum requirements of this chapter, for the AOSS;
4. The performance data sampling and reporting schedule;
5. The limits of the AOSS design and how to operate the system within those design limits;
6. For systems with flows greater than 0.04 MGD operational and control testing recommendations which shall be based upon 9VAC25-790-970; and
7. Other information deemed necessary or appropriate by the designer.

12VAC5-613-160. Mandatory visits, inspection requirements.

When an operator is required to make a visit to an AOSS the operator shall, at a minimum, accomplish the following:

1. Inspect all components of the AOSS and conduct field measurements, sampling and other observations required by this chapter, the O&M Manual, or deemed necessary by the operator to assess the performance of the AOSS and its components.
2. Perform routine maintenance, make adjustments, and replace worn or dysfunctional components with in-kind parts such that the system can reasonably be expected to return to normal function.
3. If the AOSS is not functioning as designed or in accordance with the performance requirements of this chapter and, in the operator's professional judgment it cannot be reasonably expected to return to normal function through routine operation and maintenance, report

immediately to the owner the remediation efforts necessary to return the AOSS to normal function.

12VAC5-613-170. Reports.

When required to file a report, the operator shall complete the report in a form approved by the division. In accordance with § 32.1-164 H of the Code of Virginia, the operator shall file each report using a web-based system and must pay a fee of \$1.00. The operator may, solely at his own discretion, file reports in addition to those required by this chapter. Each report shall be filed by the 15th of the month following the month in which the visit occurred and shall include the following minimum elements:

1. The name and license number of the operator;
2. The date and time of the report;
3. The purpose of the visit, such as required visit, follow-up, or reportable incident;
4. A summary statement stating whether:
 - a. The AOSS is functioning as designed and in accordance with the performance requirements of this chapter;
 - b. After providing routine operation and maintenance the operator believes the AOSS will return to normal function; or
 - c. The system is not functioning as designed or in accordance with the performance requirements of this chapter and additional actions are required by the owner to return the AOSS to normal function;
5. All maintenance performed or adjustments made, including parts replaced;
6. The results of field measurements, sampling and observations;
7. The name of the laboratory that will analyze samples; and
8. Statement certifying the date the operator provided a copy of the report to the owner.

Part IV

Horizontal Setback Requirements

12VAC5-613-180. Horizontal setback requirements.

AOSS designed pursuant to § 32.1-163.6 of the Code of Virginia are subject to the following horizontal setbacks which are necessary to protect public health and the environment:

1. The horizontal setback distances that apply to public and private drinking water sources of all types, including wells, springs, reservoirs and other surface water sources, except that in cases where an existing sewage system is closer to a private drinking water source the AOSS shall be no closer

to the drinking water source than the existing sewage system;

2. The horizontal setback distances that apply to shellfish waters; and

3. The horizontal setback distances that apply to sink holes.

VA.R. Doc. No. R10-2164; Filed April 7, 2010, 10:29 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

COMMON INTEREST COMMUNITY BOARD

Forms

NOTICE: The following forms have been filed by the Common Interest Community Board. The forms are available for public inspection at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, or on the agency's website at http://www.dpor.virginia.gov/dporweb/cicb_form.cfm, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from contact person identified below.

Title of Regulation: **18VAC48-50. Common Interest Community Manager Regulations.**

Agency Contact: Trisha L. Henshaw, Executive Director, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-0362, email cic@dpor.virginia.gov.

FORMS (18VAC48-50)

Common Interest Community Manager Change of Responsible Person, Principal, or Supervisory Employee/Officer, MGRCHG (eff. 04/10).

Common Interest Community Manager License Application, MGRLIC (eff. 04/10).

CIC Manager Training Program Approval Application, 05TRNGPROV (eff. 04/10).

VA.R. Doc. No. R10-2371; Filed April 2, 2010, 1:02 p.m.

BOARD OF PHARMACY

Notice of Extension of Emergency Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10, 18VAC110-20-400; adding 18VAC110-20-740 through 18VAC110-20-800).**

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

Effective Dates: April 10, 2009, through October 6, 2010.

Pursuant to § 2.2-4011, the Board of Pharmacy requested an extension of the above-referenced emergency regulation to complete the requirements of the Administrative Process Act. The emergency regulations were published in 25:17 VA.R. 3018-3023 April 27, 2009 (<http://register.dls.virginia.gov/vol25/iss17/v25i17.pdf>).

Chapter 429 of the 2008 Acts of Assembly requires the Board of Pharmacy to promulgate regulations to establish a Prescription Drug Donation Program for accepting unused previously dispensed prescription drugs that meet certain criteria for redispensing to patients of free clinics. The second enactment of Chapter 429 required the board to promulgate regulations to implement the provisions of the act effective within 280 days of its enactment.

The board submitted the emergency regulations for Executive Branch review on September 25, 2008, and approval to publish those regulations was received April 9, 2009. Therefore, the emergency regulations did not become effective until April 10, 2009, and expired on April 9, 2010.

Simultaneously with publication of the emergency regulations, the board published a Notice of Intended Regulatory Action on April 27, 2009, to begin the process of promulgating a permanent replacement regulation. The Board of Pharmacy submitted the proposed replacement regulation on July 24, 2009; permission to publish the proposed regulation was granted on October 29, 2009, and it was submitted to the Registrar of Regulations that same day. Comment on the proposed regulations closed on January 22, 2010, and the board will adopt final regulations at its next scheduled meeting on March 9, 2010. In order to have had a replacement regulation in effect by April 9, 2010, it would have been necessary to submit the final regulation by February 10, 2010. Therefore, a six-month extension was requested to allow the permanent replacement regulation to become effective.

The Governor approved the department's request to extend the expiration date of the emergency regulation for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the regulations will continue in effect through October 6, 2010.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email scottirussell@dhp.virginia.gov.

VA.R. Doc. No. R09-1606; Filed April 9, 2010, 4:57 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 8 (2010)

Declaration of a State of Emergency for the Commonwealth of Virginia Due to a Severe Winter Storm Event throughout the Western and Southwestern Portion of the Commonwealth

On February 26, 2010, I verbally declared a state of emergency to exist for the western and southwestern portion of the Commonwealth of Virginia based on a winter storm with damaging high winds, continuous snow showers and blowing snow that reduced visibility to near zero creating the potential for transportation difficulties and power outages. National Weather Service forecasts total snowfall accumulations of 8 to 16 inches are possible in the higher elevations through Monday morning March 1, 2010.

The health and general welfare of the citizens of the Commonwealth require that state action be taken to help alleviate the conditions caused by this situation. The effects of this storm constitute a disaster wherein human life and public and private property are imperiled, as described in § 44-146.16 of the Code of Virginia.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued this date, whereby I proclaim that a state of emergency exists and I direct that appropriate assistance be rendered by agencies of both state and local governments to prepare for potential impacts of the storm, to alleviate any conditions resulting from significant storm events and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions in so far as possible. Pursuant to § 44-75.1 (A)(3) and (A)(4) of the Code of Virginia, I also directed that the Virginia National Guard and the Virginia Defense Force be called forth to state duty to be prepared to respond to assist in providing such aid. This shall include Virginia National Guard assistance to the Virginia State Police to direct traffic, prevent looting, and perform such other law enforcement functions as the Superintendent of State Police, in consultation with the State Coordinator of Emergency Management, the Adjutant General, and the Secretary of Public Safety, may find necessary.

In order to marshal all public resources and appropriate preparedness, response and recovery measures to meet this potential threat and recover from its effects, and in accordance with my authority contained in § 44-146.17 of the

Emergency Services and Disaster Laws, I hereby order the following protective and restoration measures:

A. The implementation by agencies of the state and local governments of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state agency plans.

B. The activation of the Virginia Emergency Operations Center (VEOC) and the Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to local governments. I am directing that the VEOC and VERT coordinate state actions in support of potential affected localities, other mission assignments to agencies designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and others that may be identified by the State Coordinator of Emergency Management, in consultation with the Secretary of Public Safety, which are needed to provide for the preservation of life, protection of property, and implementation of recovery activities.

C. The authorization to assume control over the Commonwealth's state-operated telecommunications systems, as required by the State Coordinator of Emergency Management, in coordination with the Virginia Information Technology Agency, and with the consultation of the Secretary of Public Safety, making all systems assets available for use in providing adequate communications, intelligence and warning capabilities for the event, pursuant to § 44-146.18 of the Code of Virginia.

D. The evacuation of areas threatened or stricken by effects of the storm. Following a declaration of a local emergency pursuant to § 44-146.21 of the Code of Virginia, if a local governing body determines that evacuation is deemed necessary for the preservation of life or other emergency mitigation, response or recovery, pursuant to § 44-146.17(1) of the Code of Virginia, I direct the evacuation of all or part of the populace therein from such areas and upon such timetable as the local governing body, in coordination with the Virginia Emergency Operations Center (VEOC), acting on behalf of the State Coordinator of Emergency Management, shall determine. Notwithstanding the foregoing, I reserve the right to direct and compel evacuation from the same and different areas and determine a different timetable both where local governing bodies have made such a determination and where local governing bodies have not made such a determination. Violations of any order to citizens to evacuate shall constitute a violation of this Executive Order and are punishable as a Class 1 misdemeanor.

E. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to § 44-146.17(5) and § 44-146.28:1 of

the Code of Virginia, to provide for the evacuation and reception of injured and other persons and the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the Code of Virginia.

F. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, over width, registration, or license exemptions to all carriers transporting essential emergency relief supplies or providing restoration of utilities (electricity, gas, phone, water, wastewater, and cable) in and through any area of the Commonwealth in order to support the disaster response and recovery, regardless of their point of origin or destination.

The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

Any One Axle	24,000 Pounds
Tandem Axles (more than 40 inches but not more than 96 inches spacing between axle centers)	44,000 Pounds
Single Unit (2 Axles)	44,000 Pounds
Single Unit (3 Axles)	54,500 Pounds
Tractor-Semitrailer (4 Axles)	64,500 Pounds
Tractor-Semitrailer (5 or more Axles)	90,000 Pounds
Tractor-Twin Trailers (5 or more Axles)	90,000 Pounds
Other Combinations (5 or more Axles)	90,000 Pounds
Per Inch of Tire Width in Contact with Road Surface	850 Pounds

All overweight loads, up to a maximum of 12 feet, must follow Virginia Department of Motor Vehicles (DMV) hauling permit and safety guidelines.

In addition to described overweight/overwidth transportation privileges, carriers are also exempt from registration with the Department of Motor Vehicles. This includes the vehicles enroute and returning to their home base. The above-cited agencies shall communicate this information to all staff responsible for permit issuance and truck legalization enforcement.

This authorization shall apply to hours worked by any carrier when transporting passengers, property, equipment, food, fuel, construction materials and other critical supplies to or from any portion of the Commonwealth for purpose of providing relief or assistance as a result of this disaster, pursuant to § 52-8.4 of the Code of Virginia.

The foregoing overweight/overwidth transportation privileges as well as the regulatory exemption provided by § 52-8.4(A) of the Code of Virginia, and implemented in 19VAC30-20-40 B of the "Motor Carrier Safety Regulations," shall remain in effect for 30 days from the onset of the disaster, or until emergency relief is no longer necessary, as determined by the Secretary of Public Safety in consultation with the Secretary of Transportation, whichever is earlier.

G. The discontinuance of provisions authorized in paragraph F above may be implemented and disseminated by publication of administrative notice to all affected and interested parties by the authority I hereby delegate to the Secretary of Public Safety, after consultation with other affected Cabinet-level Secretaries.

H. The authorization of a maximum of \$100,000 for matching funds for the Individuals and Household Program, authorized by The Stafford Act (when Presidentially authorized), to be paid from state funds.

I. The implementation by public agencies under my supervision and control of their emergency assignments as directed in the COVEOP without regard to normal procedures pertaining to performance of public work, entering into contracts, incurring of obligations, or other logistical and support measures of the Emergency Services and Disaster Laws, as provided in § 44-146.28(b) of the Code of Virginia. Section 44-146.24 of the Code of Virginia also applies to the disaster activities of state agencies.

J. Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia, in performing these missions shall be paid from state funds and/or federal funds. In addition, up to \$100,000 shall be made available for state response and recovery operations and incident documentation with the Department of Planning and Budget overseeing the release of these funds.

K. Designation of members and personnel of volunteer, auxiliary and reserve groups including search and rescue (SAR), Virginia Associations of Volunteer Rescue Squads (VAVRS), Civil Air Patrol (CAP), member organizations of the Voluntary Organizations Active in Disaster (VOAD), Radio Amateur Civil Emergency Services (RACES), volunteer fire fighters, Citizen Corps Programs such as Medical Reserve Corps (MRCs) and Citizen Emergency Response Teams (CERTS), and others identified and tasked by the State Coordinator of Emergency Management for specific disaster related mission assignments as representatives of the Commonwealth engaged in emergency services activities within the meaning of the immunity provisions of § 44-146.23(a) and (f) of the Code of Virginia, in the performance of their specific disaster-related mission assignments.

L. The authorization of appropriate oversight boards, commissions and agencies to ease building code restrictions, and to permit emergency demolition, hazardous waste disposal, debris removal, emergency landfill siting and operations and other activities necessary to address immediate health and safety needs without regard to time-consuming procedures or formalities and without regard to application or permit fees or royalties.

M. The activation of the statutory provisions in § 59.1-525 et seq. of the Code of Virginia related to price gouging. Price gouging at any time is unacceptable. Price gouging is even more reprehensible after a natural disaster. I have directed all applicable executive branch agencies to take immediate action to address any verified reports of price gouging of necessary goods or services. I make the same request of the Office of the Attorney General and appropriate local officials.

N. The following conditions apply to the deployment of the Virginia National Guard and the Virginia Defense Force:

1. The Adjutant General of Virginia, after consultation with the State Coordinator of Emergency Management, shall make available on state active duty such units and members of the Virginia National Guard and Virginia Defense Force and such equipment as may be necessary or desirable to assist in preparations and in alleviating the human suffering and damage to property.

2. Pursuant to § 52-6 of the Code of Virginia, I authorize the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police officers as deemed necessary. These police officers shall have the same powers and perform the same duties as the State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

3. In all instances, members of the Virginia National Guard and Virginia Defense Force shall remain subject to military command as prescribed by § 44-78.1 of the Code of Virginia and not subject to the civilian authorities of county or municipal governments. This shall not be deemed to prohibit working in close cooperation with members of the Virginia Departments of State Police or Emergency Management or local law enforcement or emergency management authorities or receiving guidance from them in the performance of their duties.

4. Should service under this Executive Order result in the injury or death of any member of the Virginia National Guard, the following will be provided to the member and the member's dependents or survivors:

- a. Workers' Compensation benefits provided to members of the National Guard by the Virginia Workers Compensation Act, subject to the requirements and limitations thereof; and, in addition,

- b. The same benefits, or their equivalent, for injury, disability and/or death, as would be provided by the federal government if the member were serving on federal active duty at the time of the injury or death. Any such federal-type benefits due to a member and his or her dependents or survivors during any calendar month shall be reduced by any payments due under the Virginia Workers' Compensation Act during the same month. If and when the time period for payment of Workers' Compensation benefits has elapsed, the member and his or her dependents or survivors shall thereafter receive full federal-type benefits for as long as they would have received such benefits if the member had been serving on federal active duty at the time of injury or death. Any federal-type benefits due shall be computed on the basis of military pay grade E-5 or the member's military grade at the time of injury or death, whichever produces the greater benefit amount. Pursuant to § 44-14 of the Code of Virginia, and subject to the availability of future appropriations which may be lawfully applied to this purpose, I now approve of future expenditures out of appropriations to the Department of Military Affairs for such federal-type benefits as being manifestly for the benefit of the military service.

5. The following conditions apply to service by the Virginia Defense Force:

1. Compensation shall be at a daily rate that is equivalent of base pay only for a National Guard Unit Training Assembly, commensurate with the grade and years of service of the member, not to exceed 20 years of service;

2. Lodging and meals shall be provided by the Adjutant General or reimbursed at standard state per diem rates;

3. All privately owned equipment, including, but not limited to, vehicles, boats, and aircraft, will be reimbursed for expense of fuel. Damage or loss of said equipment will be reimbursed, minus reimbursement from personal insurance, if said equipment was authorized for use by the Adjutant General in accordance with § 44-54.12 of the Code of Virginia; and

4. In the event of death or injury, benefits shall be provided in accordance with the Virginia Workers Compensation Act, subject to the requirements and limitations thereof.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia, other than costs defined in the paragraphs above pertaining to the Virginia National Guard and the Virginia Defense Force, in performing these missions shall be paid from state funds.

This Executive Order shall be effective February 26, 2010 and shall remain in full force and effect until June 30, 2011 unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this first Day of March 2010.

/s/ Robert F. McDonnell
Governor

EXECUTIVE ORDER NUMBER 9 (2010)

Establishing the: "Governor's Commission on Higher Education Reform, Innovation and Investment"

Importance of the Issue

The current period of economic challenge facing our Commonwealth and Nation comes during an era of rapid technological advancement and intensifying international competition, requiring an increasingly knowledgeable workforce and engaged citizenry. There is a well-documented general correlation between the degree or certificate a person gains and the income he or she earns-between a state's educational attainment and its per capita income. Higher education is among the state programs generating the highest return in terms of job creation, economic growth, and ultimately tax revenues.

With great national universities, a higher education system distinguished by both its quality and diversity, and a vibrant knowledge-based economy, Virginia has a unique opportunity to show the way to a new era of American leadership in advanced education, ground-breaking research, and economic growth. Our country's security, our state's prosperity, and our citizens' opportunity all depend on a sustained commitment to higher education excellence and access.

During the first decade of this century, Virginia's state support for public colleges and universities was cut nearly in half on a per-student, constant-dollar basis. The result was an unprecedented cost shift to students and their families and a potential threat to quality and access. Tuition has nearly doubled in the past decade. Colleges and universities must continue to find ways to reduce operating costs and focus on

the disciplines that lead to the high paying jobs of the future. Greater efficiencies and more productivity in the state system must be found.

There is a pressing need for the Commonwealth to establish a long-term policy of reform, innovation and investment that will ensure instructional excellence, create affordable pathways to college degree attainment for many thousands more Virginians, prepare our citizens for employment in the high-income, high-demand fields of the new economy, foster socio-economically important research and development, and ensure affordable access to appropriate post-secondary education, training, and re-training for all Virginians.

Governor's Commission on Higher Education Reform, Innovation and Investment

Accordingly, 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 § 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Commission on Higher Education Reform, Innovation and Investment ("Commission").

The Commission shall consist of up to 30 members appointed by the Governor and serving at his pleasure. The Governor shall designate a Chairman and one or more Vice-Chairmen from among the members. The Commission shall include the Secretary of Education, the Secretary of Technology, the Secretary of Finance or designate, and the Vice-Chairman of the Council on Virginia's Future and other state leaders as determined by the Governor. The Lieutenant Governor, Secretary of Commerce and Trade, and Senior Economic Advisor shall serve as ex officio members.

The Commission shall consider the current state of public and private higher education in Virginia and the best practices in other states and countries, and shall make findings and recommendations for addressing the following priorities:

- Preserving and enhancing the instructional excellence of Virginia's leading universities and of the higher education system as a whole;
- Increasing significantly the percentage of college-age Virginians enrolling in institutions of higher education and attaining degrees;
- Attracting and preparing young people for the STEM (science, technology, engineering, and math) areas and other disciplines (e.g., healthcare and advanced manufacturing) where skill shortages now exist and/or unmet demand is anticipated;
- Forging new effective public-private partnerships and regional strategies for business recruitment, workforce preparation, and university-based research;

Governor

- Making Virginia a national leader in providing higher education opportunities to military personnel and veterans;
 - Crafting a sustainable higher education funding model that will systematically move Virginia toward higher levels of educational attainment and economic competitiveness over the next decade-and-a-half;
 - Developing innovative ways to deliver quality instruction, cost-saving reform strategies, and affordable new pathways to degree attainment for capable and motivated Virginians regardless of income or background;
 - Evaluating strategies to reduce costs through additional college placement testing and accelerated degree completion; and
 - Creating effective workforce development programs through expanded use of the Community College System in coordination with the Commission on Economic Development and Job Creation.
- Concentration of increased educational attainment in the STEM areas and other high-demand and high-income fields;
 - Plan to support increased enrollment of Virginia students;
 - Suitable financial aid for low and middle income families;
 - Alignment of policies, resources and incentives to promote study in areas where shortages of skilled workers exist or are anticipated;
 - Provision of enhanced higher education opportunities to military personnel and veterans; and
 - Coordination with the Job Creation Officer, Office of Commerce and Trade, and Governor's Economic Development and Job Creation Commission on workforce development initiatives and recommendations.

The Commission's report shall set forth a comprehensive strategy for increased educational attainment, skills development, and lifelong learning that will equip Virginians to succeed at the highest levels of global economic competition. The strategy shall include a renewed commitment to public-private collaboration, predictable state operational support, and managerial flexibility at the institutional level. The strategy shall simultaneously challenge, encourage, and empower the institutions to attract resources, emphasize STEM and other priority disciplines, while deemphasizing low-demand programs, and using new technology and pedagogy to replace outmoded methods of service delivery with cost-effective instructional programming. The strategy shall embrace the full array of Virginia's higher education assets-public and private, for-profit and not-for-private, residential and non-residential, physical and virtual-for the purpose of ensuring that all Virginians have affordable access to appropriate post-secondary education, training, and re-training opportunities.

The Commission shall accomplish its work through committees appointed by the Chairman and corresponding to the following three major objectives, together with such additional committees, subcommittees and working groups as the Chairman may establish:

(1) Increased Degree Attainment, Financial Aid and Workforce Training

- Plan for achieving the goal of 100,000 cumulative additional associate and bachelor's degrees over the next 15 years;

(2) Implement Innovation and Cost Containment

- Model for higher education funding and service delivery that embodies a long-term commitment to high-quality instruction and affordable access, and that incorporates the degree attainment goals set out in (1) above;
- Rigorous cost-benefit analysis to identify and phase out low-demand programs and reduce/prevent wasteful central office administrative spending and eliminate redundancy within and across higher educational institutions;
- Optimal development and utilization of private and federal resources;
- Increased collaboration among high schools, community colleges, four-year institutions, and private providers to reduce the time and cost of obtaining a college degree;
- Use of new technology for delivering instruction, including course re-design for online learning, use of electronic instructional materials in lieu of textbooks, etc.; and
- Analysis of the principles and objectives of the Higher Education Restructuring Act of 2005, and enhancements thereto.

(3) Regional Strategies/Partnerships for Research and Economic Development

- Plan to dramatically increase the leveraging of private and federal research funding by Virginia's colleges and universities;

- Coordination with development of a Virginia Energy Institute and other energy-related research initiatives;
- Coordination with the Office of Commerce and Trade to develop region-specific strategies and partnerships through which public and private colleges and community colleges participate actively in economic development, workforce training, development of research parks, and related activities; and
- Identification of funding streams through which financial incentives for regional collaboration and public-private partnerships may be introduced.

The Commission shall submit to the Governor its findings and recommendations on matters potentially impacting the development of the Executive Budget no later than September 30, 2010. The Commission shall submit to the Governor a final report of its activities, findings and recommendations no later than November 30, 2010.

Staff support as necessary for the conduct of the Commission's work during the term of its existence shall be provided by the Office of the Governor, the Office of the Secretary of Education, the Offices of the other Governor's Secretaries represented on the Commission, the Department of Planning and Budget, the Council on Virginia's Future, and such other agencies as the Governor may designate. All executive branch agencies shall cooperate fully with the Commission and render such assistance as may be requested by it.

An estimated 2,000 hours of staff time will be required to support the Commission. Such funding as is necessary for the term of the Commission's existence shall be provided from sources, including both private and appropriated funds, contributed or appropriated for purposes related to the work of the Commission, as authorized by Section 2.2-135(B) of the Code of Virginia. Direct expenditures for the Commission's work are estimated to be \$15,000, exclusive of staff support.

/s/ Robert F. McDonnell
Governor

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

April 8, 2010

Administrative Letter 2010-03

TO: All Insurers Licensed to Write Accident and Sickness Insurance in Virginia, and All Health Services Plans and Health Maintenance Organizations Licensed in Virginia

RE: 14VAC5-190-10 et seq.: Rules Governing the Reporting of Cost and Utilization Data Relating to Mandated Benefits and Mandated Providers - 2009 Reporting Period

The purpose of this Administrative Letter is to assist carriers in the preparation of the Annual Report of Cost and Utilization Data relating to Mandated Benefits and Providers required pursuant to 14VAC5-190-10 et seq. and § 38.2-3419.1 of the Code of Virginia, and to remind all affected carriers of the reporting requirements applicable to mandated benefits and providers for the 2009 reporting year. Carriers should refer to 14VAC5-190-40 for an explanation of the circumstances under which a full and complete or an abbreviated report must be filed, or under which a company may be exempt from filing a report. The Virginia total annual written premiums for all accident and sickness policies or contracts referred to in the regulation is the amount reported to the Commission on the company's Annual Statement for the year ending December 31, 2009. This is the amount used to determine if a report is required. Each affected carrier must submit a completed Form MB-1 to furnish the required information. It is not acceptable to submit more than one Form MB-1 for a single carrier or to consolidate information from different carriers on one form.

The completed Form MB-1 (cover sheet and sections) is due on or before May 1, 2010 and may be submitted electronically. The due date may not be extended for any reason, including the inability to file the reports electronically. The instructions, representative CPT and ICD-9-CM codes, and forms for the 2009 reporting period are available on the Bureau of Insurance's website at:

<http://www.scc.virginia.gov/boi/webpages/boimandatedforms.htm>

The instructions explain the type of information necessary to complete Form MB-1. All sources of information, including 14VAC5-190-10 et seq., §§ 38.2-3408 through 38.2-3418.14, as applicable, § 38.2-4221, and CPT and ICD-9-CM codes, should be consulted in the preparation of this report. Please note that the CPT and ICD-9-CM codes are not intended to exhaust all medical codes that may be used in collecting data for Form MB-1, but are representative of some of the more common codes associated with the mandated benefits.

Carriers are reminded that failure to submit a substantially complete and accurate report pursuant to the provisions of 14VAC5-190-10 et seq., by May 1, 2010, may be considered a violation subject to a penalty as set forth in § 38.2-218 of the Code of Virginia. Lack of notice, lack of information, lack of means of producing the required data, or other such reasons will not be accepted for not submitting a complete and accurate report in a timely manner.

Correspondence regarding reporting requirements should be directed to: Mary Ann Mason, Senior Insurance Market Examiner, Forms and Rates Section, Bureau of Insurance, Life and Health Division, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9348, FAX (804) 371-9944, or email maryann.mason@scc.virginia.gov. System related questions or problems should be directed to: Andrew Iverson, Insurance Analyst, Bureau of Insurance, Automated Systems, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9851, FAX (804) 371-9516, or email andrew.iverson@scc.virginia.gov.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Consent Order for Belvedere Station Land Trust

An enforcement action has been proposed for Belvedere Station Land Trust for alleged violations in Albemarle County. A proposed consent order describes a settlement to resolve wetland permit reporting and mitigation violations at its Belvedere Development. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov.

Steven W. Hetrick will accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878 or postal mail at Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from April 26, 2010, to May 26, 2010.

Air Quality Plan

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed plan to assure necessary authorities are contained in the state implementation plan to allow areas to attain and maintain the national ambient air quality standard for ozone and very fine particulate matter (PM_{2.5}). The Commonwealth intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air

Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act.

Purpose of notice: (i) Regulation Revision A08, Article 8 of 9VAC5-80 (Permits for Stationary Sources), Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas. DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as revisions to the plan. (ii) Two § 110(a)(2) Infrastructure SIP submittals: CS, changes to § 10.1-1302 of the Code of Virginia covering qualifications of members of the board; and DS, changes to previously submitted 8-hour ozone and PM_{2.5} § 110(a)(2) infrastructure SIP submittals regarding §§ 110(a)(2)(E)(i) and 128 requirements for state boards necessitated by § 10.1-1302. DEQ is seeking comment on the issue of whether the plan demonstrates the Commonwealth's compliance with federal Clean Air Act requirements related to general state plan infrastructure.

Public comment period: April 26, 2010, to May 27, 2010.

Public hearing: A public hearing will be conducted if a request is made in writing to the contact listed below. In order to be considered, the request must include the full name and address of the person requesting the hearing and be received by DEQ on the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Description of proposal: The proposed revisions will consist of amendments to plan provisions concerning the following: (i) For Regulation Revision A08, revising the definitions of "major modification," "major stationary source," "regulated NSR pollutant" and "significant," and the list of exempted facilities, to specify that nitrogen oxides (NO_x) are a precursor of ozone in addition to volatile organic compounds (VOCs). (ii) For Infrastructure SIP submittals CS and DS, revising the plan as needed to demonstrate compliance with §§ 110(a)(2)(E)(ii) and 128 requirements regarding state boards.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the Commonwealth of Virginia SIP.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ on the last day of the comment period. All testimony, exhibits, and documents received are part of the public record. Please note

this proposed plan is being concurrently reviewed by U. S. EPA.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans website (<http://www.deq.virginia.gov/air/permitting/planotes.html>). The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) DEQ Main Street Office, 8th Floor, 629 E. Main St., Richmond, VA, telephone (804) 698-4070
- 2) Southwest Regional Office, 355 Deadmore St., Abingdon, VA, telephone (540) 676-4800
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Rd., Roanoke, VA, telephone (540) 562-6700
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Rd., Lynchburg, VA, 804-582-5120
- 5) Valley Regional Office, 4411 Early Rd., Harrisonburg, VA, telephone (540) 574-7800
- 6) Piedmont Regional Office, 4949-A Cox Rd, Glen Allen, VA, telephone (804) 527-5020
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800
- 8) Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA, telephone (757) 518-2000

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.

Notice of Release of Final Assessment Guidance

The Virginia Department of Environmental Quality (DEQ) will release the final 2010 Water Quality Assessment Guidance Manual on April 26, 2010.

The DEQ Assessment Guidance contains the assessment procedures and methods to be used for the development of Virginia's 2010 § 305(b)/§ 303(d) Integrated (i.e. combined Water Quality Assessment and Impaired Waters) Report. The DEQ Assessment Guidance seeks to address all key elements of the Environmental Protection Agency (EPA) 2006 Assessment Guidance, and both their 2008 and 2010 Assessment Guidance updates, including those released on May 5, 2009, as well as the methods of assessing Chesapeake Bay Water Quality Standards, consistent with "Ambient Water Quality Criteria for Dissolved Oxygen, Water Clarity, and Chlorophyll *a* for the Chesapeake Bay and Its Tidal Tributaries (July 2007) Addendum" by the U.S. Environmental Protection Agency.

General Notices/Errata

The DEQ guidance also reflects changes in Virginia's Water Quality Standards adopted by the Virginia Water Control Board on October 17, 2008, which became effective on February 1, 2010, after EPA approval on December 29, 2009. Most notably these included changes in many of the criteria for toxics in fish tissue and public water supply as well as revised procedures for assessing water quality in lakes.

Section 62.1-44.19:5 C of the Code of Virginia requires DEQ to develop and publish the procedures used for defining and determining impaired waters and provide for public comment on the procedures. A draft version of this guidance was released for public review and comment on June 29, 2009. The comment period closed on July 24, 2009. Only one comment was received from either the United States Environmental Protection Agency (EPA) or the public.

A copy of the final revised DEQ Assessment Guidance is available to download from the DEQ Water Quality Assessment webpage at <http://www.deq.virginia.gov/wqa/>. A hard copy can also be requested from Harry Augustine, DEQ Water Quality Assessment Coordinator, using his contact information below.

Collective responses to comments received during the earlier public comment period are also available for download at the URL above. This document has also been mailed to the organization that submitted comment.

Agency Contact: Harry Augustine, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4037, FAX (804) 698-4032, or via email at harry.augustine@deq.virginia.gov.

Total Maximum Daily Load for Browns Run and Craig Run

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of an Implementation Plan (IP) for bacteria Total Maximum Daily Loads (TMDLs) on a 2.39 mile stream segment of Browns Run, 3.61 mile segment of Craig Run, and a 8.16 mile segment of Marsh Run in Fauquier County. The TMDLs for these stream impairments were completed in January 2008 and can be found in the Upper Rappahannock River Basin Report on DEQ's website at <http://www.deq.virginia.gov/tmdl/apptmdls/rappvr/urappaec.pdf>.

Section 62.1-44.19:7 C of the Code of Virginia requires the development of an IP for approved TMDLs. The IP should provide measurable goals and the date of expected achievement of water quality objectives. The IP should also include the corrective actions needed and their associated costs, benefits, and environmental impacts.

The first public meeting on the development of the IP for the bacteria TMDLs will be held on Tuesday, May 4, 2010, at

7 p.m. at the Cedar Lee Middle School, 11138 Marsh Road (Route 17), Bealton, VA. After a one hour public meeting, stakeholders will break into two working groups to begin the public participation input process for the implementation plan.

The 30-day public comment period on the information presenting at this meeting will end on June 4, 2010. A fact sheet on the development of an IP for the Brown, Craig, and Marsh Runs is available upon request. Questions or information requests should be addressed to Bob Slusser at the Virginia Department of Conservation and Recreation. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Bob Slusser, Department of Conservation and Recreation, email address bob.slusser@dcr.virginia.gov, telephone (540) 351-1590.

Total Maximum Daily Load Implementation Plan for James River, Ivy Creek, Tomahawk Creek, Burton Creek, Judith Creek, Fishing Creek, Blackwater Creek, and Beaver Creek

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) seek public comment and participation in developing a bacteria Total Maximum Daily Load Implementation Plan (TMDL IP), or watershed and water quality management plan, for eight stream segments (18.43 miles of James River, 5.37 miles of Ivy Creek, 5.9 miles of Tomahawk Creek, 3.47 miles of Burton Creek, 10.55 miles of Judith Creek, 5.45 miles of Fishing Creek, 10.24 miles of Blackwater Creek and 8.5 miles of Beaver Creek) which drain from portions of Campbell, Bedford, and Amherst counties and the City of Lynchburg.

Public meeting date/location/time: Thursday, May 6, 2010, the meeting will be held in the Hall Center Ball Room at Lynchburg College, 1501 Lakeside Drive, Lynchburg, Virginia from 6:30 p.m. to 8:30 p.m. Signs will be available directing the public to the Hall Center Ball Room as you enter Lynchburg College from Lakeside Drive.

Meeting description: This is the first public meeting on the development of the James River Basin TMDL IP, a watershed management plan that outlines voluntary actions or practices that should be utilized within the region to clean up project water bodies. During the meeting citizens will have an opportunity to learn about the stream segment impairments, learn about the TMDL Implementation Plan, and be provided information on opportunities to participate and provide input in the water quality planning initiative.

Public comment period: The public comment period on the materials presented at the public meeting will extend from May 6, 2010, to June 7, 2010.

How to comment: Written comments and inquiries should include the name, address, and telephone number of the

person submitting the comments and should be sent to Paula Nash, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, email paula.nash@deq.virginia.gov, telephone (434) 582-5120 or Kelly Hitchcock, Virginia's Region 2000 Local Government Council, 828 Main Street, 12th Floor, Lynchburg, VA 24504, email khitchcock@region2000.org, telephone (434) 845-3491.

Additional information: For additional information on the James River Basin TMDL Implementation Plan, you may contact Kelly Hitchcock, contact information above, or go the Environmental Section of the Virginia Region 2000 Local Government Council website at <http://region2000.org/environmental-services.html>.

Implementation Plan - Mill and Powhatan Creek Watersheds

The Department of Environmental Quality (DEQ), the Department of Conservation and Recreation (DCR), the Hampton Roads Planning District Commission, and James City County invite citizens to a public meeting to discuss the development of an Implementation Plan (IP) to address fecal bacteria impairments in the Mill and Powhatan Creek Watersheds. Water quality monitoring indicates that bacteria levels in Mill and Powhatan Creeks violate Virginia's water quality standards for primary contact recreation. A Total Maximum Daily Load (TMDL) study for the impairments was approved by EPA in 2008 and is available on DEQ's website at <http://www.deq.virginia.gov/tmdl/apptmdls/jamesrvr/millpowec.pdf>.

The Implementation Plan will identify ways to meet the pollutant reductions outlined in the TMDL study.

The final public meeting to review the Draft TMDL Implementation Plan will be held on Thursday, May 13, 2010, at 6:30 p.m., James City/Williamsburg Community Center, 5301 Longhill Road, Williamsburg, VA 23188.

The purpose of the meeting is to discuss the proposed management actions to reduce bacteria concentrations in the affected watersheds and to solicit public comment on the draft Implementation Plan. The IP includes the corrective actions needed to reduce bacteria and the associated costs, benefits and environmental impacts. The IP also provides measurable goals and a timeline of expected achievement of water quality objectives. A copy of the draft Implementation Plan will be available on the James City County website by May 3, 2010. (<http://www.jccgov.com/stormwater/index.html>).

How to comment: The public comment period on the development of the IP will end on June 14, 2009. Oral comments will be accepted and addressed at the public meeting. Additional questions or information requests should be addressed to Jennifer Howell. Written comments and inquires should include the name, address, and telephone

number of the person submitting the comments and should be sent to Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, or email jshowell@deq.virginia.gov or Jennifer Tribo, Hampton Roads Planning District Commission, 723 Woodlake Dr., Chesapeake, VA 23320, telephone (757) 366-4344, FAX (757) 523-4881, jtribo@hrpdc.org.

Water Quality Study for Nebletts Mill Run and Hatcher Run

Public meeting: Public meeting will be held on Wednesday, May 5, 2010, at 2:30 p.m. at the Rowanty Technical Center located at 20000 Rowanty Road, Carson, VA 23830.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a water quality study to identify and quantify the bacteria pollution sources in an unnamed tributary (UT) to Nebletts Mill Run in Sussex County and Hatcher Run in Dinwiddie County. This notice announces the first public meetings on May 5 and a public comment opportunity, which begins on May 6.

Meeting description: Overview and summary of the research to date of water quality impairments of the recreation/swimming use (mentioned above) that are due to bacterial violations. Meeting will serve as an opportunity for the public to offer input regarding the impaired watersheds and to ask questions regarding the water quality study and report development. No final results will be available at this meeting.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination for Hatcher Run and an UT to Nebletts Mill Run. This former impairment spans approximately 4 miles and the latter approximately 2 miles. These waterways are impaired for failure to meet the recreational (swimming) designated use due to exceedances of the bacterial water quality standard.

Waterbody	Location	Impaired Length (mi)	Impairment
Hatcher Run (VAP K23R-05-BAC)	Dinwiddie County (from headwaters to the pond below Rt. 627)	4.36	Recreational Use (Swimming)
Unnamed Tributary to Nebletts Mill Run (VAP K23R-03-BAC)	Sussex County	1.73	
Total Impaired Length		6.09	

General Notices/Errata

The study reports on the current status of the streams via sampling performed by the Virginia Department of Environmental Quality and the possible sources of bacterial contamination. The study recommends total maximum daily loads (TMDL) for the above impairments. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, bacteria levels have to be reduced to the TMDL amount.

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, which expires June 7, 2010. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Margaret Smigo, TMDL Coordinator, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, FAX (804)-527-5106, or email margaret.smigo@deq.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Order

The following Director's Order of the State Lottery Department was filed with the Virginia Registrar of Regulations on April 1, 2010. The order may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

Director's Order Number Thirty-Seven (10)

"Select Convenience Store Clerk Rewards Program" Virginia Lottery Retailer Incentive Program Rules (effective 4/1/10)

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed

Beginning with Volume 26, Issue 1 of the Virginia Register of Regulations dated September 14, 2009, the Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed will no longer be published in the Virginia Register of Regulations. The cumulative table may be accessed on the Virginia Register Online webpage at <http://register.dls.virginia.gov/cumulat.htm>.

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.