



# VIRGINIA

## REGISTER OF REGULATIONS

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

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

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

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

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

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

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

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

## FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

## EMERGENCY REGULATIONS

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

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

## STATEMENT

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

## CITATION TO THE VIRGINIA REGISTER

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

*The Virginia Register of Regulations* is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **Marcus B. Simon**, Vice Chair; **Ward L. Armstrong**; **Nicole Cheuk**; **Leslie L. Lilley**; **Jennifer L. McClellan**; **Christopher R. Nolen**; **Steven Popps**; **Don L. Scott, Jr.**; **Charles S. Sharp**; **Malfourd W. Trumbo**; **Amigo R. Wade**.

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

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## PUBLICATION SCHEDULE AND DEADLINES

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

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### April 2022 through April 2023

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
38:17	March 23, 2022	April 11, 2022
38:18	April 6, 2022	April 25, 2022
38:19	April 20, 2022	May 9, 2022
38:20	May 4, 2022	May 23, 2022
38:21	May 18, 2022	June 6, 2022
38:22	June 1, 2022	June 20, 2022
38:23	June 15, 2022	July 4, 2022
38:24	June 29, 2022	July 18, 2022
38:25	July 13, 2022	August 1, 2022
38:26	July 27, 2022	August 15, 2022
39:1	August 10, 2022	August 29, 2022
39:2	August 24, 2022	September 12, 2022
39:3	September 7, 2022	September 26, 2022
39:4	September 21, 2022	October 10, 2022
39:5	October 5, 2022	October 24, 2022
39:6	October 19, 2022	November 7, 2022
39:7	November 2, 2022	November 21, 2022
39:8	November 14, 2022 ( <b>Monday</b> )	December 5, 2022
39:9	November 30, 2022	December 19, 2022
39:10	December 14, 2022	January 2, 2023
39:11	December 27, 2022 ( <b>Tuesday</b> )	January 16, 2023
39:12	January 11, 2023	January 30, 2023
39:13	January 25, 2023	February 13, 2023
39:14	February 8, 2023	February 27, 2023
39:15	February 22, 2023	March 13, 2023
39:16	March 8, 2023	March 27, 2023
39:17	March 22, 2023	April 10, 2023
39:18	April 5, 2023	April 24, 2023

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

#### Agency Decision

Title of Regulation: **18VAC30-21. Regulations Governing Audiology and Speech-Language Pathology.**

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

Name of Petitioner: Rebecca Delbridge.

Nature of Petitioner's Request: Allow supervision of assistants by speech-language pathologists via telepractice.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 8, 2022, the Board of Audiology and Speech-Language Pathology adopted a guidance document on supervision of assistants that is intended to assist licensees in the utilization of unlicensed persons in their practice. The document (Guidance Document 30-4) will be posted on the Virginia Regulatory Town Hall with an open comment period from March 28, 2022, to April 27, 2022. The public may access the document at <https://townhall.virginia.gov/L/Forums.cfm>. After the comment period, the document will be posted on the website for the board.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Audiology and Speech-Language Pathology, 9960 Mayland Drive, Suite 300, Richmond, VA, 23233, telephone (804) 597-4130, or email [audbd@dhp.virginia.gov](mailto:audbd@dhp.virginia.gov).

VA.R. Doc. No. PFR22-07; Filed March 8, 2022, 11:31 a.m.

### BOARD OF SOCIAL WORK

#### Agency Decision

Title of Regulation: **18VAC140-20. Regulations Governing the Practice of Social Work.**

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

Name of Petitioner: Darryl McCarroll.

Nature of Petitioner's Request: Amend 18VAC140-20-45, Licensure by endorsement, to accept experience in another jurisdiction.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on March 4, 2022, the Board of Social Work considered the petition. The board did not see a reason to amend the regulation based on the unique application situation of the petitioner.

Agency Contact: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Richmond, VA, 23233, telephone (804) 367-4441, or email [jaime.hoyle@dhp.virginia.gov](mailto:jaime.hoyle@dhp.virginia.gov).

VA.R. Doc. No. PFR22-15; Filed March 4, 2022, 1:42 p.m.

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# PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF VETERINARY MEDICINE

#### Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Veterinary Medicine conducted a periodic review and a small business impact review of **18VAC150-20, Regulations Governing the Practice of Veterinary Medicine**, and determined that this regulation should be amended. The department is publishing its report of findings dated March 3, 2022, to support this decision.

This chapter has been in effect as VR645-01-1 before the creation of the Virginia Administrative Code. It has been amended 17 times in the past nine years. It continues to be effective in protecting the public by setting rules for qualifications and practice of veterinarians, veterinary technicians, equine dental technicians, and veterinary establishments. Whenever amendments are promulgated, language is reviewed to ensure that it is clearly written and easily understandable.

The board decision is to retain the regulation with amendments. The board has identified the following areas of regulation that it will consider for amendments: (i) requirements for faculty and intern/resident licensure (Dean at veterinary college has some suggestions); (ii) requirements for veterinary establishments (improve drug security, clarify, address some large animal ambulatory issues); (iii) changes to requirement for posting licenses to allow for license verification since the board is no longer sending hard copy licenses with expiration dates; (iv) review and update to unprofessional conduct regulations; (v) review and update section on delegation of duties to unlicensed assistants; and (vi) review and update to licensure requirements.

After further opportunity for review and recommendations for amendments, the board will publish a Notice of Intended Regulatory Action.

There is a continued need for the regulation since Chapter 38 (§ 54.1-3800 et seq.) of Title 54.1 of the Code of Virginia requires veterinarians and veterinary technicians to be licensed by the board. The board has not received any complaints or comments concerning the regulation. Practitioners do not find the regulation to be overly complex, but the board will consider whether requirements could be simplified or clarified. There is no overlap, duplication, or conflict with federal or state law or regulation.

The last periodic review was concluded in 2017, and the board has continually updated regulations while protecting the health and safety of animals in the Commonwealth. In its review, the board will consider any additional amendments that are

recommended that will streamline or clarify regulations in order to minimize the economic impact on small businesses.

Contact Information: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130.

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## TITLE 22. SOCIAL SERVICES

### STATE BOARD OF SOCIAL SERVICES

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-73, Standards for Licensed Assisted Living Facilities**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins March 28, 2022, and ends April 18, 2022.

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

Contact Information: Sharon Stroble, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7037.

#### Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **22VAC40-160, Fee Requirements for Processing Applications**. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including

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## Periodic Reviews and Small Business Impact Reviews

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whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins March 28, 2022, and ends April 18, 2022.

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

Contact Information: Sherri Williams, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7141.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 9. ENVIRONMENT

### STATE WATER CONTROL BOARD

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-880, General VPDES Permit for Discharges of Stormwater from Construction Activities**. The purpose of the proposed action is to reissue the existing general permit regulation, which expires on June 30, 2024, to continue to authorize stormwater discharges from construction activities through general permit coverage. The proposed regulatory action protects water quality in the Commonwealth of Virginia, which is essential to the health, safety, and welfare of Virginia's citizens and is needed to establish appropriate and necessary permitting requirements for discharges of stormwater from large and small construction activities. Under the federal Clean Water Act, these discharges are considered point source discharges and are subject to regulation under the Virginia Pollutant Discharge Elimination System (VPDES) permit program. The programmatic and technical requirements implemented by this general permit regulation are contained within the Virginia Stormwater Management Program Regulation (9VAC25-870). The proposed regulatory action authorizes discharges of stormwater from large and small construction activities and establishes the best management practices and control measures necessary to control such discharges. This regulatory action also implements the post-development water quality and water quantity design criteria as required in the Virginia Stormwater Management Program Regulation.

Changes to the existing general permit regulation include (i) updating the effective dates of the general permit to July 1, 2024, through June 30, 2029; (ii) clarifying permit requirements; and (iii) correcting typographical errors. Additional amendments may be identified following the submittal of public comments on this notice, through the work of the technical advisory committee, or to comply with federal requirements and watershed plans.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15:25 of the Code of Virginia.

Public Comment Deadline: April 27, 2022.

Agency Contact: Joseph Crook, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 814-8324, FAX (804) 698-4178, or email [joseph.crook@deq.virginia.gov](mailto:joseph.crook@deq.virginia.gov).

VA.R. Doc. No. R22-7057; Filed March 4, 2022, 12:12 p.m.

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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 12. HEALTH

### STATE BOARD OF HEALTH

#### Proposed Regulation

**Title of Regulation: 12VAC5-125. Regulations for Bedding and Upholstered Furniture Inspection Program (amending 12VAC5-125-10, 12VAC5-125-30 through 12VAC5-125-60, 12VAC5-125-80 through 12VAC5-125-110, 12VAC5-125-130, 12VAC5-125-180; adding 12VAC5-125-145; repealing 12VAC5-125-20, 12VAC5-125-70, 12VAC5-125-120, 12VAC5-125-140 through 12VAC5-125-170).**

**Statutory Authority:** § 32.1-212 of the Code of Virginia.

**Public Hearing Information:**

April 6, 2022 - noon - Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 200, Hearing Room 5, Richmond, Virginia 23233

**Public Comment Deadline:** May 27, 2022.

**Agency Contact:** Olivia McCormick, Program Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8146, FAX (804) 864-7475, or email [olivia.mccormick@vdh.virginia.gov](mailto:olivia.mccormick@vdh.virginia.gov).

**Basis:** The Virginia Department of Health has general authority to promulgate regulations pursuant to § 32.1-12 of the Code of Virginia, which requires the board to make, adopt, promulgate, and enforce regulations necessary to carry out the provisions of Title 32.1 of the Code of Virginia to protect the public health and safety. Sections 32.1-212 through 32.1-226 of the Code of Virginia require every entity importing, manufacturing, renovating, or reupholstering any bedding or upholstered furniture or processing or selling any filling material to be used in articles of bedding or upholstered furniture to obtain a license from the State Health Commissioner. Every entity renting, selling, or bartering a secondhand item of bedding and upholstered furniture must sanitize the item before commercial disposal and must obtain a permit to do so from the State Health Commissioner, with no exemptions for antiques established in Code of Virginia. Section 32.1-218 of the Code of Virginia authorizes the State Board of Health to establish fees for licensing and permitting. Additionally, every item of bedding or upholstered furniture sold, rented, or otherwise commercially distributed in the Commonwealth must be tagged with a law label accurately describing the item.

**Purpose:** Nationwide, one independent locality and 32 other states regulate bedding and upholstered furniture. These localities use the uniform registry number (URN) system, in which all localities recognize registration numbers issued by other localities and allow manufacturers and importers to use these numbers in the licensing and registration of their products across the country. These numbers are used on the law labels required on bedding and upholstered furniture. However, law label requirements in Virginia contain conflicts with other states' standards, which creates an unnecessary burden on industry. Eliminating the conflicts between Virginia regulations and national standards will reduce the burden on the regulated industry, bring Virginia in line to national standards, and still be protective of public health.

Additionally, during development of the proposed amendments, the regulated industry and representatives from other state's bedding and upholstered furniture regulatory programs requested Virginia address standards for reclaimed and reprocessed filling materials in the amendments. Public demand for products made with post-consumer materials has increased in recent years and is only expected to further increase in the future. New technologies have allowed reclaimed and reprocessed materials, such as polyester generated from recycled plastic and post-consumer reclaimed down, to be processed with methods that produce products with equal or better quality and cleanliness than those made with virgin materials. The language of the regulation must be updated to reflect these modern practices in industry.

The text of the regulation is currently vague about certain licensing requirements, implying multiple licenses must be held by importers and distributors working with multiple manufacturers. Additionally, permitting requirements for reupholsterers and renovators who also need to sanitize secondhand bedding and upholstered furniture are not clear, and the implications of exemptions for individuals who sell their household goods through consignment are not well set out. Overall, the language of all licensing, permitting, inspection, and enforcement sections require revision and streamlining to make administrative procedures more clear to the regulated public.

During the 2018 legislative session, the General Assembly requested that the Virginia Department of Health to consider amending the regulation to issue reupholsterers an operating permit instead of a license (this is a semantic change only) and consider reducing the fee associated with this permit. Both of these requests were addressed in the proposed amendments.

Additionally, the Office of the Attorney General stated in the 2017 periodic review of this regulation that the State Board of



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# Regulations

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Health does not have the authority to exempt antiques from this regulation. As this regulation currently has an exemption for antiques, this language must be removed to align with the board's statutory authority.

Substance: The proposed amendments reorganize the way information is presented, add a new sections to outline variance procedures, repeal sections to remove obsolete information and duplication, and improve grammar and ease of understanding by the general public and regulated industry.

Substantive changes include:

1. Revision, addition, and deletion of definitions as required to support other amendments;
2. Establishment of standards for reclaimed and reprocessed new materials;
3. Removal of unauthorized exemption for antique items;
4. Revision and clarification of license and permit application procedures;
5. Redesignating reupholsterer and renovator authorizations as permits (currently licenses, semantic only);
6. Removal of requirement for importers and distributors to obtain multiple licenses when contracted with multiple manufacturers;
7. Reorganization and clarification of the agency's rights to inspect under this chapter;
8. Moving law label templates into cohesive tables and removal of provisions contradictory to national standards;
9. Creation of law label template for reclaimed and reprocessed products;
10. Clarification of existing sanitization procedures for secondhand bedding, combining two sections of sanitization requirements into one section (repealing and relocating);
11. Establishment of new general methods for sanitization (heat and steam) and pathway for new specific products and processes to be approved through policy;
12. Transparently outlining existing standards for sterilized animal hair, feathers, and down; complying with national standards;
13. Establishment of enforcement procedures compliant with the Virginia Administrative Process Act;
14. Repealing unnecessary descriptions of agency authority and obsolete administrative and enforcement procedures;
15. Adjusting fee schedules to ensure importer and distributor license revenue remains budget neutral and the program's operating revenue will not change; exempting single-employee renovators and reupholsterers from permit fees;
16. Repealing an obsolete document incorporate by reference terminology manual no longer in use; and
17. Revision of the regulation title for improved grammar when the chapter is referenced in text.

Issues: The primary advantage of the proposed amendments is that they will provide organization and clarity to the existing text, which will better facilitate the public's and regulated industry's understanding of the regulation.

Under the amendments, importers and distributors will maintain one license. These license holders will save significant time and effort in comparison to their current administrative burden of maintaining multiple licenses (when they contract with multiple manufacturers; in some cases, up to 86 fewer licenses will be required for an importing entity). Fee adjustments will ensure no overall revenue change associated with this amendment.

The amendments will also provide industry a compliant pathway for the use and labeling of products with reclaimed and reprocessed filling materials, which are not currently addressed in the regulation. These new provisions will respond to and address a growing sector in the industry, and better meet public demand for safe and healthy eco-friendly products.

Antique dealers will experience some disadvantage through the elimination of the current exemption for antiques. Businesses that are not currently regulated by the agency (because they do not sell non-antique bedding or upholstered furniture) will be required to sanitize regulated items and retain a sanitizer permit. However, there is no option for this change, as it is required to bring the chapter under the limits of its statutory authority. Multiple changes to sanitizing requirements, most notably the addition of steam as a sanitizing method, are designed to mitigate these disadvantages for businesses that do not want to use the currently approved method of spraying items with isopropyl-alcohol based chemicals.

The agency will benefit from the clarity of the revisions, as they may reduce the time and effort staff spend on explaining procedures that are not well outlined in the current text. The agency also expects to observe a slight reduction in licensing administrative procedures (e.g., returned, incomplete license applications).

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

Summary of the Proposed Amendments to Regulation. The State Board of Health (Board) proposes to amend 12VAC5-125 Regulations for Bedding and Upholstered Furniture Inspection Program in order to implement the results of a periodic review. Accordingly, the Board proposes to make a number of changes to the regulation. These changes are intended to reduce conflicts with other states' bedding and upholstered furniture (BUF) regulations, clarify the existing requirements for use of animal hair, feathers, or down, and clarify license and permit requirements and operating standards. More substantively, the proposed changes would establish new law labels for items containing reclaimed and reprocessed materials, repeal an existing exemption for antiques from statutory requirements for secondhand furniture, and update the fee schedule.

Background. Title 32.1, Chapter 6, Article 7 (§§ 32.1-212 through 32.1-226) of the Code of Virginia lays out the legal requirements for the production, sale and resale of BUF items. As a category, BUF includes a wide variety of consumer goods such as mattresses and box-springs, pillows, comforters, cushions, as well as couches, chairs and other upholstered furniture that contains filling, regardless of the material. Thus, BUF not only includes common household furniture, but also office chairs, beds in recreational vehicles and boats, as well as cribs and car seats designed for infants and children. Many of these items are durable and can be bought and sold secondhand. The primary objective of the BUF inspection program is to safeguard the health and safety of consumers in Virginia. Hence, the statute and the regulation seek to ensure that (i) appropriate and safe materials are being used in new BUF items, (ii) secondhand BUF items do not harbor bedbugs, other common pests, or disease-causing pathogens, and (iii) both new and used BUF items have labels that clearly inform consumers about all the materials used, including concealed filling materials, in case they contain potential allergens.

The BUF program was established through statute in 1946<sup>1</sup> and continues to maintain many of the original definitions, rules, and procedures. Accordingly, these statutory provisions may be considered outdated as compared to current industry practices.

Significant changes to this statute and the BUF program were made by Chapter 1003 of the 2003 Acts of Assembly, which required the Board to promulgate regulations for the BUF inspection program and changed a key part of the inspection process. In response to this legislation, the Board adopted the first permanent BUF regulations in 2007. The legislation also required that a complaint be received by the Department of Health (VDH) prior to inspection of licensed entities.<sup>2</sup> As a result, VDH inspectors can only inspect a licensee and enforce the statute if they receive a complaint. In practice, VDH inspectors also visit former licensees if they did not renew the license on time or to follow up on violations from a prior complaint. In the course of such visits, they also canvas other entities nearby that may require a license or permit.

The proposed amendments were developed as part of a periodic review completed in 2017 and thus affect almost all aspects of the BUF industry in Virginia. However, given the evolution of the BUF statute, these changes may not actually affect regulants if they do not expect to be the subject of a complaint or receive a visit for any of the reasons mentioned above.

The most substantive changes are summarized as follows:

**Replacing the current law labels:** As mentioned previously, the BUF statute requires that all BUF items have an affixed label (law label) that contains specific information for consumers, with minimum requirements for the size and color of the label and the size of the lettering in which the information is printed on the label. Templates for law labels are included in the text of the regulation, meaning all manufacturers and importers

must affix labels that adhere to the template to each item of BUF. The current law label requirements in Virginia conflict with other states' standards, which creates an unnecessary burden for manufacturers and importers. The proposed law label templates would resolve all existing conflicts with other states' labels while also meeting all statutory requirements.

**Reclaimed and reprocessed filling materials:** Regulants in Virginia and representatives of BUF regulatory bodies from other states requested that Virginia address standards for reclaimed and reprocessed filling materials, since items containing such materials are gaining consumer demand. In response, the Board proposes to add a definition of "reclaimed and reprocessed," specifying that the reclaimed material be "reprocessed using a manufacturing process identical to the processing of like virgin material to quality and cleanliness standards comparable to non-reclaimed material. Reclaimed and reprocessed filling materials are considered new."

Manufacturers and importers could use the proposed law label templates for new items and add the statement, "New filling material is composed (entirely, partially, or %) reclaimed and reprocessed materials." Alternatively, the proposed amendments include a new set of law label templates: these labels would necessarily contain the statement above, and would be printed in green ink instead of black (against a white background) to make them more easily recognizable.

**Implementing a single-license regime:** Importers and distributors who contract with multiple manufacturers are currently required to have a license for each manufacturer and pay a \$100 fee for each license, regardless of the total number of manufacturers from whom they source their products. The proposed amendments would repeal these requirements and instead offer a single license per importer or distributor, with a sliding-scale fee structure. In particular, it uses intervals where more than four manufacturers are involved (e.g., 5-9, 10-14, and so on), which reduces the burden on importers who contract with many manufacturers and may change the composition of their contracted manufacturers throughout the year. The Board anticipates that the proposed fee structure would be revenue neutral.

**Repealing the unauthorized exemption for antiques:** As mentioned previously, the 2003 Acts of Assembly required the Board to promulgate regulations regarding BUF and inspections thereof. Although not specifically addressed in the legislation or earlier statute, this affected all BUF items, including quilts and upholstered furniture, considered to be antiques. The 2004 BUF emergency regulation was drawn largely from the BUF statute and hence did not contain any exemptions for antiques in particular.<sup>3</sup>

However, the permanent regulation was amended through the standard regulatory process, and one of the changes made between the emergency and final regulations was to add an exemption for antiques. Specifically, antiques were defined as being more than 75 years old and were exempt from the sanitizing and labeling requirements for secondhand furniture.

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This exemption was added "to help clarify parts of the regulations" although the exemption was not expressly authorized by statute.<sup>4</sup>

During the certification process for the 2017 periodic review, the Office of the Attorney General pointed out that the Code of Virginia does not allow exemptions for antiques and that the Board had exceeded its authority in that instance.<sup>5</sup> Although the Board's general authority under § 32.1-12 of the Code of Virginia allows exemptions from its regulations, it does not allow the Board to provide any exemptions from statute.<sup>6</sup> In other words, because the BUF statute defines "secondhand" in a manner that would include antiques, antiques cannot be exempt from the regulation.<sup>7</sup> Hence, under the regulations the Board is now proposing, antique dealers would be required to either acquire a sanitizing permit or contract with a permitted sanitizer to treat all BUF items, regardless of age or condition.

**Establishing new methods for sanitizing:** In order to reduce the risk of damage to antiques, while maintaining compliance with statute, the Board proposes to allow the use of heat or steam treatments in lieu of the chemicals typically used in sanitizing processes. By adding a section explicitly addressing reasonable variances, the proposed changes also create a pathway for new products and processes to be approved through policy. Thus, any antique dealers who may be in possession of items too fragile to sanitize using the existing methods may contact the Board and propose a reasonable alternative.

The proposed amendments also include a number of other changes that are intended to align the regulatory language with current practice. For example, boats and automobiles would be removed from the regulation's definition of upholstered furniture; the statutory definition does not explicitly include these and the Board has not been regulating secondhand dealers of boats or automobiles.<sup>8</sup> As a result, secondhand BUF items on boats and automobiles have a de facto exemption.

## Estimated Benefits and Costs.

**Antique BUF.** The main source of potential costs are to antique dealers in possession of antique BUF items that are more than seventy-five years old and are no longer exempt from the sanitizing requirements. These antique dealers risk lowering or losing the resale value of antique BUF items to the extent that they may be damaged if they are sanitized. Even if no actual damage occurs to an antique BUF item, antique dealers would likely be negatively impacted by the direct costs of the sanitizing requirement. These antique dealers face direct costs in terms of the \$60 sanitizer permit and the cost of spray chemicals and/or hand-operated steamers.

The extent to which antiques are directly at risk of damage is somewhat curtailed by (i) exemptions provided in the Code of Virginia and (ii) the proposed amendment to the regulation that adds a section allowing for variances. The Code of Virginia exempts estate sales, individuals selling their personal possessions, and individuals selling handmade antique BUF items on a consignment basis with annual revenues less than \$2,000 from having to sanitize any secondhand BUF items.<sup>9</sup>

Thus, antique dealers may find themselves adopting a "consignment" model where they do not own the BUF items outright but merely represent an estate or a private seller for pieces that are most at risk of damage from sanitizing. Further, as mentioned previously, the proposed amendments expand the acceptable sanitizing techniques, adding heat and steam as alternatives to existing methods that involve isopropyl alcohol-based solutions. If none of the sanitizing methods covered in the regulation is appropriate for a particular item, antique dealers may request a variance by proposing alternative methods. More generally, VDH is asking for feedback for additional methods that could be incorporated in the regulation by the final stage.

While the measures discussed would help antique dealers maintain the value of their current inventory, removing the exemption for antiques could have far-reaching consequences if antique dealers had been using it to avoid sanitizing all secondhand BUF items of unverified age, including those that are less than 75 years old. If a significant share of the market for antique BUF items transitioned to a consignment model, antique dealers would only earn a fixed commission or receive a fraction of the profits they currently make. Further, antique dealers in general may respond by refusing to purchase antique BUF items, choosing instead to specialize in antiques that did not include bedding or upholstery. This could restrict the pool of potential buyers for estate sale or private seller antique BUF items, thereby reducing the value of those goods even though they are already exempt from any sanitizing requirements.

**Non-antique BUF.** The proposed amendments include changes that could be highly beneficial to BUF manufacturers, importers, distributors and consumers in Virginia. In particular, the proposed amendments include two measures that could potentially place Virginia at the forefront for national best practices in this field.

1. Development of an optional white label with green font for reclaimed and reprocessed materials. As demand for reclaimed and reprocessed materials increase (e.g., polyester filling made from recycled plastic bottles) an easily identifiable label would draw consumer attention, serving to attract those who wish to make more environmentally conscious choices and warn those who seek to avoid items using reclaimed materials. The transparency provided by such a label could pave the way for national acceptance of reclaimed and reprocessed materials in BUF products. VDH reports that several states have expressed an interest in adopting the reclaimed and reprocessed standards and templates based on how it is received in Virginia.

2. Development of the sliding scale fee structure for importer and distributor fees based on the number of unique manufacturers. Importers are currently charged \$100 annually for every manufacturer from whom they import BUF goods. Each manufacturer has a unique Uniform Registry Number (URN) and importers are currently required to report all the URNs they work with every time they renew their license. If the importer switches manufacturers during the year, they are

currently required to report these changes and pay mid-year fees for adding a new URN. This creates a significant regulatory compliance burden on large furniture retailers who import most of the products they sell, and who may contract with hundreds of individual manufacturers all over the world.

VDH has received significant positive feedback on the proposed fee changes, including from the largest account holder who would likely experience the most significant increase in fees, simply because the new fee structure would allow them some mid-year URN additions without having to report these changes and pay an additional fee each time.

Lastly, renovators and upholsterers who are self-employed and do not have any other employees will benefit from no longer having to pay a license fee. **Businesses and Other Entities Affected.** Due to the antiques exemption, the Board does not have an estimate for the total number of unique businesses that would be affected. There does not appear to be a Virginia chapter of any trade or professional organization representing antique dealers. An online search of antique vendors with addresses in Virginia suggests there may be approximately 400 such entities. All of these would be affected if antiques cease to be exempt from sanitizing requirements, although to varying degrees. For the 2018 license year, there were 690 discrete entities with Importer or Distributor licenses. They would be affected by the change in the license fee structure depending on the number of manufacturers from whom they typically source their goods. VDH does not have any information on the number of manufacturers who use reclaimed materials and who would adopt the "green" labels.

#### Small Businesses<sup>10</sup> Affected.

**Types and Estimated Number of Small Businesses Affected.** As mentioned, an online search of antique vendors with addresses in Virginia suggests there may be approximately 400 such entities. All of these would be affected if antiques cease to be exempt from sanitizing requirements, although to varying degrees. Although VDH does not collect information on the size of businesses, they expect that all of these entities will qualify as small businesses. For the 2018 license year, there were 690 discrete entities with Importer or Distributor licenses. VDH expects that majority of these may be small businesses, but does not collect this data.

**Costs and Other Effects.** All the costs and benefits detailed above would apply to antique dealers and importers or distributors, respectively. These entities are unlikely to be particularly affected due to being classified as small businesses. As mentioned previously, antique dealers face an adverse impact in terms of both direct and indirect costs arising from the sanitizing requirements. Although there are no reporting requirements to VDH, dealers would need to maintain records about when each item had been sanitized and label the item with this information. The impact on antique dealers would be limited to the extent that they have already been sanitizing their products. VDH reports that a number of antique dealers may already be sanitizing antiques if they also

sell items less than 75 years old, which have never been exempt, and do not have the space to store sanitized and non-sanitized items separately.

**Alternative Method that Minimizes Adverse Impact.** There are no alternative regulatory measures that would meet policy goals and have lower adverse impact.

**Localities<sup>11</sup> Affected.<sup>12</sup>** The proposed amendments do not introduce new costs for local governments.

**Projected Impact on Employment.** The proposed amendments are unlikely to affect total employment in the industry.

**Effects on the Use and Value of Private Property.** The value of antiques may be diminished to the extent that damage is incurred in the sanitizing process. On the other hand, antiques that have been sanitized without damage may increase in value. On the whole antique dealers' businesses may lose value to the extent that their inventory contains antique BUF items.

Real estate development costs do not appear to be affected.

<sup>1</sup>Chapter 263 of the 1946 Acts of Assembly.

<sup>2</sup>See <http://lis.virginia.gov/cgi-bin/legp604.exe?031+ful+CHAP1003>

<sup>3</sup>See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=1419>. The emergency regulation became effective June 1, 2004.

<sup>4</sup>See pages 5 and 6 of the Agency Background Document (ABD) at the second proposed stage for the promulgating action at [https://townhall.virginia.gov/L/GetFile.cfm?File=58\1419\3318\AgencyStatement\\_VDH\\_3318\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=58\1419\3318\AgencyStatement_VDH_3318_v1.pdf).

<sup>5</sup>See [https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\Review\1591\AGMemo\\_VDH\\_1591\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\Review\1591\AGMemo_VDH_1591_v1.pdf)

<sup>6</sup>Section 32.1-12 of the Code of Virginia allows the board to "make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom [its regulations] as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner or the Department."

<sup>7</sup>Section 32.1-212 of the Code of Virginia defines "secondhand" as "having been made prior use of or containing any filling material of which prior use has been made." See <https://law.lis.virginia.gov/vacodefull/title32.1/chapter6/article7/>.

<sup>8</sup>Section 32.1-212 defined upholstered furniture as "any article of furniture designed to be used for sitting, resting, or reclining that is wholly or partly stuffed or filled with any filling material."

<sup>9</sup>See <https://law.lis.virginia.gov/vacode/title32.1/chapter6/section32.1-225/>

<sup>10</sup>Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

<sup>11</sup>"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

<sup>12</sup>Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

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

#### Summary:

*The proposed amendments (i) update the regulation by reducing conflicts with other states' bedding and*

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*upholstered furniture regulations; (ii) transparently outline existing requirements for use of animal hair, feathers, or down; (iii) establish consumer notifications on law labels for the use of reclaimed and reprocessed materials; (iv) clarify licensing and permitting requirements and operating standards; and (v) address concerns expressed by the General Assembly and Office of the Attorney General regarding certain items in the regulation.*

## 12VAC5-125-10. Definitions.

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

"Antique" means any product that is at least 75 years old.

~~"As is" means a sales term to describe bedding and upholstered furniture products as any condition other than in new or undamaged condition.~~

"Bedding" means any mattress, mattress pad, box spring, upholstered bed, davenport, futon, upholstered sofa bed, quilted pad, packing pads, hammock pad, comforter, quilt, bolster, cushion, pillow, featherbed, sleeping bag, studio couch, or any other bag, case, pillow, cushion, or cover made of leather, textile, or other material that is stuffed or filled in whole or in part with concealed ~~substance that~~ filling material and can be used by ~~any a human being~~ for sleeping or reclining purposes.

"Bedding Program" means the Bedding and Upholstered Furniture Inspection Program, a unit of the Virginia Department of Health authorized by the health commissioner to carry out the duties and responsibilities of this chapter.

~~"Board" means the State Board of Health.~~

~~"Commissioner" means the State Health Commissioner, his duly designated officer or agent.~~

~~"Department" means the State Department of Health.~~

~~"Designee" or "designated officer or agent" means any person or group of persons designated by the commissioner to act on his behalf.~~

"Distributor/wholesaler" "Distributor" means any person who receives bedding, upholstered furniture, or filling materials from another company inside the United States for the purpose of resale.

"Filling material" means cotton, wool, feathers, kapok, down, hair, liquid, plant or vegetable fibers, or any other material or substance or combination thereof, loose or in batting; or pads; or in any prefabricated form, concealed or not concealed, ~~that is used or that may be potentially~~ used in articles of bedding or upholstered furniture.

"Health commissioner" means the chief executive officer of the State Board of Health or authorized agent.

"Importer" means any person who ~~for the purpose of manufacture or resale~~ receives from another company bedding, upholstered furniture, or filling material from any country other than the United States for the purpose of resale.

~~"Inspector" means department employees designated by the commissioner to inspect, examine, investigate, evaluate and conduct tests, review documentation, interview witnesses, take samples and provide testimony in the enforcement of Title 32.1 of the Code of Virginia and § 59.1-200 of the Virginia Consumer Protection Act.~~

"Law label" means the tag bearing legal notice and information concerning the contents and manufacturing location as required by § 32.1-219 of the Code of Virginia. A white tag certifies all new materials. A yellow label indicates used materials 12VAC5-125-90.

"License" means permission authorization granted in accordance with § 32.1-217 of the Code of Virginia for every by the health commissioner that allows a person manufacturing, importing, distributing/wholesaling, processing or selling to manufacture, distribute, or import bedding and upholstered furniture or any filling materials to be used in new bedding and upholstered furniture, and reupholstering or renovating bedding or upholstered furniture being returned to its original owner.

"Licensing state" means any of the United States that require a manufacturer, importer, ~~distributor/wholesaler~~ distributor, supply dealer, sanitizer, reupholsterer, or renovator to apply for a license or permit in order to sell bedding and upholstered furniture products in that state.

"Manufacturer" means a person who, using new materials, makes or ~~has employees or employs~~ agents who make any article of bedding or upholstered furniture in whole or in part, or who covers or upholsters any unit thereof.

"New" means not previously used for any purpose. Uncovered floor models and customer returns ~~shall not be~~ are not considered new. Manufacturing process, including manufacturing of reclaimed and reprocessed materials, shall not be considered prior use.

"Permit" means ~~consent granted in accordance with § 32.1-216 of the Code of Virginia to approve a process~~ authorization by the health commissioner that allows a person to sanitize or sterilize filling material; or to sanitize, reupholster, or renovate secondhand bedding or upholstered furniture by a person treating used products for resale.

"Person" means ~~an individual, corporation, partnership, association~~ any individual or group of individuals, named party, partnership, firm, private or public association or corporation, state, county, city, town, or anyone that by covenant, restriction, or agreement has care, control, custody, ownership, or management of property or parts thereof, or any combination, or any other legal entity.

"Reclaimed and reprocessed" means filling materials recovered from sources that would have otherwise been disposed of as waste or used for energy recovery, have been recovered as material input in lieu of virgin material, and reprocessed using a manufacturing process identical to the processing of like virgin material to quality and cleanliness standards comparable to non-reclaimed material. Reclaimed and reprocessed filling materials are considered new.

"Renovator" means a person ~~who that, either solely or through agents,~~ rebuilds, repairs, ~~makes over, re-covers, recovers,~~ restores, renovates, or renews ~~used bedding secondhand mattresses and box springs.~~

"Retailer" means any person engaged in commerce ~~who that~~ sells any article of bedding, upholstered furniture, or filling materials to a consumer ~~of the article as purchased.~~

"Reupholsterer" means a person ~~who (i) that, either by himself solely or through employees or agents,~~ rebuilds, repairs, ~~reupholsters,~~ recovers, restores, or renews bedding (except mattresses and box springs) and upholstered furniture; or ~~who (ii) that~~ makes to order and specification of the user any article of bedding (except mattresses and box springs) and upholstered furniture, using ~~either~~ new or secondhand materials or the owner's materials.

"Sanitize" means to reduce the level of microbiological agents to a level not injurious to health.

"Sanitizer" means a person ~~who that, either solely or through agents,~~ sanitizes articles of bedding or upholstered furniture.

"Secondhand" means ~~having been previously owned,~~ made prior use of ~~or,~~ containing any previously used filling material ~~of which prior use has been made,~~ or ~~that has~~ having been in a customer's possession outside of the place of purchase. Reclaimed materials or customer-purchased items in the uninterrupted possession of a retailer are not secondhand.

"Sell" or any of its ~~variants~~ tenses, includes means and includes any ~~of, or any combination of,~~ the following: to possess with an intent to sell, sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess with an intent to sell or dispose of in any other commercial manner.

"Shoddy" means any material ~~that has been~~ spun into yarn, knit, or woven into fabric and subsequently; cut up, torn up, broken, or ground up.

"Shoddy pad" (also called "insulator pad") means a nonwoven material made from byproducts of textile or manufacturing processes ~~and is~~ free from dirt, insects, and other contamination.

~~"Soiled or torn" means articles of new or used bedding or upholstered furniture that contain stains, dirt, ripped edges or covers, or damaged frames.~~

"Sterilize" means to render free of viable microbiological agents.

"Supply dealer" means a person who manufactures, processes, or sells any felt, batting, pads, woven or plastic fabrics, or loose material in bags or containers, concealed or not concealed, to be used ~~or that could be used~~ in articles of upholstered furniture or bedding.

"Uniform registry number" (also called "registration number," URN, and "REG. NO.") means a unique number assigned ~~to a licensee~~ by a licensing state to identify the name and ~~each~~ location of a manufacturer, reupholsterer, sanitizer, ~~sterilizer, or renovator, or importer~~ of bedding and upholstered ~~products~~ furniture. The ~~Uniform Registry Number~~ uniform registry number begins with the initials of the licensing state, followed by the assigned number, ~~then~~ and ends with the initials of the state or country where the manufacturer, reupholsterer, sanitizer, ~~sterilizer, or renovator, or importer~~ is physically located. Each location of a manufacturer, reupholsterer, sanitizer, ~~sterilizer, or renovator, or importer~~ uses only one ~~Uniform Registry Number~~ uniform registry number.

"Upholstered furniture" means any ~~article of furniture designed to be item~~ used for sitting, resting, or reclining ~~that is by a human, including limbs,~~ wholly or partly stuffed ~~or filled with any concealed~~ filling material. Upholstered furniture may include, ~~but is not limited to,~~ children's furniture, ~~furniture used exclusively for the purpose of physical fitness and exercise, fitness and exercise equipment, and medical equipment, or furniture or seats in RVs, boats or automobiles~~ recreational vehicles. Upholstered furniture may be movable or stationary, ~~made or and may be~~ sold with loose or attached cushions or pillows, ~~loose or attached, or is itself stuffed or filled in whole or in part with any substance or material, hidden or concealed by fabric or any other covering, including cushions or pillows belonging to or forming a part thereof, together with the structural units, the filling material and its container and its covering that can be used as a support for the body of a human being, or his limbs and feet.~~

~~"Used" means bedding or upholstered furniture that has been previously owned or used by another person.~~

~~"Wholesaler" means a person who, on his own account, sells any article of upholstered furniture or bedding or filling materials to another for the purpose of resale.~~

~~Filling material definitions will be in accordance with definitions published in the 2004 Edition of the International Sleep Products Association Handbook.~~

## **12VAC5-125-20. Administration. (Repealed.)**

~~A. The board has the responsibility to promulgate, amend and repeal regulations necessary to protect the public health and the environment.~~

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~~B. The State Health Commissioner is the chief executive officer of the State Department of Health. In accordance with §§ 32.1-20 and 32.1-22 of the Code of Virginia, the commissioner has the authority to act for the board when it is not in session, subject to such rules and regulations as may be prescribed by the board, and may employ such personnel as are necessary for the proper performance of his duties as executive officer of the board.~~

~~C. In addition to other authority granted by law, the commissioner has the authority to do the following:~~

- ~~1. Approve the process of sanitizing or sterilizing filling materials, bedding, or upholstered furniture.~~
- ~~2. Issue licenses/permits and assign a uniform registry number to importers, manufacturers, renovators, reupholsterers, or sanitizers.~~
- ~~3. Order the return of any item of bedding or upholstered furniture or any filling material made, remade, renovated, reupholstered, prepared, processed, labeled or not labeled in violation of the provisions of this chapter to the manufacturer or importer thereof.~~
- ~~4. Inspect the premises of a holder of a license or permit issued by the commissioner, subject to the requirements set forth at 12VAC5-125-80.~~
- ~~5. Refuse to issue, suspend or revoke the license or permit of any person (i) who violates any provision of this chapter, any regulation of the board pursuant to this chapter or any order of the board or commissioner or (ii) who is not a resident of the Commonwealth and fails or refuses to enter an appearance in any circuit court in the Commonwealth to answer a charge or charges of violation of any provision of this chapter, regulation of the board or order of the board or commissioner.~~

## **12VAC5-125-30. Powers and procedures of chapter not exclusive Compliance with the Virginia Administrative Process Act.**

~~The board reserves the right to authorize a procedure for enforcement of this chapter that is not inconsistent with the provisions set forth herein and the provisions of Chapter 1 (§ 32.1-1 et seq.) of Title 32.1 of the Code of Virginia. The provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the promulgation and administration of this chapter, including the procedures for rendering and appealing any case decision.~~

## **12VAC5-125-40. Exemptions.**

The provisions of this chapter shall not apply to:

1. Any item of bedding or upholstered furniture sold under the order of any court ~~or, in enforcement of lien~~ pursuant to § 55-419 of the Code of Virginia, or any sale settlement of a decedent's estate or any sale by any individual of his household effects.

~~2. Upholstered furniture and bedding products that are antiques as defined in 12VAC5-125-10. Any sale by any individual of their household effects, either directly to another individual or through consignment.~~

~~3. Any interstate public carrier.~~

~~4. Any state institution, agency, or department, unless such institution, agency, or department manufactures, reupholsters, or renovates bedding or upholstered furniture and offers items for sale to the public ~~items of bedding or upholstered furniture manufactured, reupholstered or renovated by it.~~~~

~~5. Any retailer who sells, gives away, or rents used upholstered furniture ~~that has been~~ purchased by the retailer as new furniture and ~~has been~~ used in the course of business when such used furniture ~~has been~~ is (i) conspicuously identified as used furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.~~

~~6. Any person who sells at retail, exclusively on a consignment basis, articles of bedding ~~that are~~ handmade by individuals and whose gross annual receipts from the sale of such articles ~~are not in excess of~~ do not exceed \$2,000 ~~shall be deemed to be the manufacturer of such articles and shall not be required to obtain a license to make such articles. Each such article~~ However, each handmade article of bedding shall have a securely attached label affixed stating the kind of filling materials used in such the article but shall be exempt from any other requirement as to tags set forth in this chapter.~~

Persons engaged in commerce, not otherwise exempt from this chapter as provided by this section, who donate secondhand articles of bedding and upholstered furniture are not required to sanitize those articles if the donation is to a holder of a valid sanitizing permit, and the articles are not represented as sanitized.

## **12VAC5-125-50. Licenses, permits, and registration uniform registry numbers.**

~~A. Licenses for manufacturers, importers, distributors, wholesalers, renovators, reupholsterers, supply dealers. General provisions.~~

- ~~1. Every importer and every person manufacturing, renovating or reupholstering any bedding or upholstered furniture or processing or selling any filling material to be used in articles of bedding or upholstered furniture, such as a distributor/wholesaler or supply dealer, shall first obtain a license from the commissioner for each place of business, subsidiary, branch or branch factory operated or contracted by him for such purpose. Only persons complying with the requirements of this chapter and §§ 32.1-212 through 32.1-226 of the Code of Virginia shall receive or retain a license or permit.~~

~~2. Such license shall be numbered; shall, unless sooner revoked, All licenses and permits shall expire one year from the date of issue; shall be renewable annually through receipt of a fee; and shall not be transferable. The commissioner shall assign a uniform registry number to each licensee.~~

~~3. Each branch, branch factory and subsidiary shall be responsible for the contents and for the tagging, as provided in this chapter, of items of bedding and upholstered furniture made, remade, renovated, reupholstered, or imported by it and offered for sale or use in the Commonwealth. Licenses and permits are nontransferable and void upon change of ownership or Federal Taxpayer Identification Number.~~

~~4. Every person who, on his own account or for others, sells or distributes either directly or indirectly to any person either at wholesale or retail any bedding, filling material, shoddy pad, or upholstered furniture by means of a permanent location, car, truck, catalog, office, Internet sales or in any other manner, shall obtain from the commissioner a license for each such method of sale or distribution. A new license or permit is not required for a change of company name or address; however, licenses and permits are void if a license or permit holder fails to notify the Bedding Program of any address change within 30 days. Reapplication for the purposes of having a new permit issued shall be the responsibility of the former license or permit holder, and such reapplication shall be handled as an initial application.~~

~~5. Any person subject to this section doing business at the same address under more than one firm name shall obtain a license or permit for each firm name.~~

~~B. Permits for sterilizers and sanitizers. Procedure for obtaining a license or permit.~~

~~1. A person applying to obtain a license or permit shall submit an application on a form provided by the Bedding Program. The required fee, as provided in 12VAC5-125-180, shall be submitted together with the application.~~

~~2. Before license or permit issuance, the Bedding Program must conduct one or more preoperational inspections of all manufacturers, supply dealers, sterilizers, sanitizers, reupholsterers, and renovators located in the Commonwealth of Virginia not licensed or permitted in the previous year. This preoperational inspection must demonstrate the manufacturer, supply dealer, sterilizer, sanitizer, reupholsterer, or renovator complies with the requirements of this chapter.~~

~~C. Licenses. Every manufacturer, importer, distributor, and supply dealer shall obtain a license for each business, subsidiary, or branch where bedding and upholstered furniture products are manufactured, imported, or distributed before offering those products for sale in or delivery to the Commonwealth of Virginia. Each location of a manufacturer must obtain a separate license for each place of manufacture.~~

1. Importers and distributors shall be licensed to import or distribute only from manufacturers listed on the license application. To add a manufacturer to this list during the license year, the importer or distributor shall notify the Bedding Program in writing on an approved form and ensure the license fees paid during that license year are current with the new total number of manufacturers (as provided by the fee schedule at 12VAC5-125-180).

2. A manufacturer must be licensed as required under this chapter prior to an importer or distributor obtaining a license to import or distribute from that manufacturer.

D. Permits. Every person who, on his own account or for others, is a sterilizer or a sanitizer sterilizer, sanitizer, reupholsterer, and renovator shall obtain from the commissioner a permit for each location at which sterilizing or sanitizing operations occur. Any person applying for approval of a process by which filling materials, bedding, or upholstered furniture are sanitized or sterilized shall submit to the commissioner a description of the process, test results and any apparatus and method to be used in such process. Upon approval of such process by the commissioner and payment of the current annual permit fee by the applicant, a numbered permit for use of such process shall be issued. Such permit shall expire one year from the date of issue. Nothing herein shall prevent any person from having any sanitizing or sterilization required by this chapter performed by any person who has a valid permit for such purposes, provided the number of such permit appears on the tag attached to each article as required by § 32.1-219 of the Code of Virginia place of business where bedding and upholstered furniture are sterilized, sanitized, reupholstered, or renovated before offering those products for sale in or delivery to the Commonwealth of Virginia.

1. Any person applying for a sanitizer or sterilizer permit must submit a description of the process by which filling materials, bedding, or upholstered furniture will be sanitized or sterilized.

2. All processes used to sanitize bedding and upholstered furniture shall comply with the requirements of 12VAC5-125-100.

3. All processes used to sterilize animal feathers, hair, or down shall comply with the requirements of 12VAC5-125-110.

~~C. General provisions:~~

~~1. Any person subject to this section must obtain a new license or permit when there is change of ownership or a change of Federal Taxpayer Identification Number (TIN). A new license or permit is not required for a change of company name or address if the ownership remains the same, but the person must notify the commissioner of such change within 30 days after such change. Licenses and permits are nontransferable.~~



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~~2. Every person subject to this section doing business at the same address under more than one firm name shall obtain a license for each firm name.~~

~~D. Procedure for obtaining a license or permit.~~

~~1. Submit a written application for license or permit to the Bedding Program on a form provided by the Bedding Program prior to selling in the Commonwealth.~~

~~2. With the application, submit the required application fee, in accordance with the fee schedule, in the form of a check in U.S. dollars.~~

~~E. Issuance of license or permit. The Bedding Program shall issue the appropriate license or permit to the applicant after:~~

- ~~1. A properly completed application is submitted;~~
- ~~2. The appropriate fee, if required, is submitted;~~
- ~~3. A preoperational inspection shows that the manufacturer, importer, distributor, wholesaler, renovator, reupholsterer, or supply dealer is in compliance with the requirements of this chapter.~~

E. Uniform registry numbers. Licensed or permitted manufacturers, supply dealers, sterilizers, sanitizers, reupholsterers, and renovators will be assigned a uniform registry number (URN). The Bedding Program will recognize a URN issued by another state and assign the URN if the applicant has a currently valid license for that URN from the issuing state at the time of application, and the URN and copy of the valid license are supplied together with the license or permit application.

1. Manufacturers, supply dealers, sterilizers, sanitizers, reupholsterers, and renovators shall use their assigned URN on all law labels as provided in 12VAC5-125-90.

2. Importers and distributors shall use the URNs assigned to the licensed manufacturers of the imported or distributed product on all law labels as provided in 12VAC5-125-90.

**12VAC5-125-60. Revocation of a license or permit Enforcement, notices, and informal conferences.**

A. The health commissioner may, after providing an opportunity for a hearing, revoke a license or permit for flagrant or continuing violation of any of the requirements of this chapter. Prior to revocation, the commissioner shall notify in writing the holder of the license or permit of the specific reason for which the license or permit is to be revoked. The license or permit shall be revoked at the end of the 15 days following service of such notice unless a written request for a hearing is filed before then with the commissioner. If no request for a hearing is filed within the 15 day period, the revocation of the license or permit shall be final. a notice of intent to revoke a license or permit and after providing an opportunity for an informal conference in accordance with § 2.2-4019 of the Code of Virginia, revoke a license or permit

for flagrant or continuing violation of this chapter. Any person to whom a notice of revocation is directed shall immediately comply with the notice. Upon revocation, the former license or permit holder shall be given an opportunity for appeal of the revocation in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Any person whose license or permit has been revoked may apply for a new license or permit by following the procedures outlined in 12VAC5-125-50.

B. The health commissioner may summarily suspend a sanitizer, reupholsterer, or renovator permit if continued operation constitutes a substantial and imminent threat to public health. Upon receipt of such notice that a permit is suspended, the permit holder shall cease permitted operations immediately. Whenever a permit is suspended, the holder of the permit shall be notified in writing by certified mail or by hand delivery. Upon service of notice that the permit is immediately suspended, the former permit holder shall be given an opportunity for an informal conference in accordance with § 2.2-4019 of the Code of Virginia. The request for an informal conference shall be in writing and shall be filed with the Bedding Program by the former holder of the permit. If written request for an informal conference is not filed within 10 working days after the service of notice, the suspension is sustained. Each holder of a suspended permit shall be afforded an opportunity for an informal conference within three working days of receipt of a request for the informal conference. The health commissioner may end the suspension at any time if the reasons for the suspension no longer exist. Working days means days on which the central office of the Virginia Department of Health is open for business and does not include holidays and closures.

C. Any person affected by a determination issued in connection with the enforcement of this chapter may challenge such determination in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

D. The health commissioner may enforce this chapter through any means lawfully available pursuant to § 32.1-27 of the Code of Virginia, and nothing in this chapter shall be construed as preventing the health commissioner from making efforts to obtain compliance through warning, conference, or any other appropriate enforcement means.

**12VAC5-125-70. Application after revocation. (Repealed.)**

Any person whose license or permit has been revoked, may apply for a new license or permit by following the procedures outlined in 12VAC5-125-50.

**12VAC5-125-80. Bedding and upholstered furniture inspections Inspections.**

A. Inspections of license and permit holders. Inspection of the premises of a holder of a license or license or permit issued holders under this chapter will may be initiated upon in the

following complaints when they relate to a violation of this chapter circumstances:

- ~~1. Upon complaints received by the commissioner. Upon receipt of a complaint relating to a violation of law, including a complaint of insect infestation required by 12VAC5-125-100 G; and~~
- ~~2. Upon complaints received by the Bedding Program Pursuant to alleged violations of this chapter observed during a previous inspection and any subsequent steps taken by the permit holder to comply with this chapter, or as necessary to verify compliance.~~
- ~~3. Upon complaints received by the Department of Agriculture and Consumer Services and reported to the commissioner or Bedding Program.~~
- ~~4. Upon complaints made to an inspector in the course of a routine inspection and reported to the Bedding Program.~~
- ~~5. Upon complaints against a licensee made by an inspector when noted in the course of a routine inspection of an ancillary operation (such as a sanitizer, distributor/wholesaler or retailer) and reported to the Bedding Program.~~
- ~~6. Upon complaints (or findings of violations) against a licensee by the authorities of a government jurisdiction outside the Commonwealth that the licensee has sold bedding in violation of laws, regulations or standards of that jurisdiction dealing with tagging, sanitization, or consumer protection requirements.~~
- ~~7. Upon late or nonrenewal of permit or license by a licensee or permit holder or upon late notification of a change of location. Renewal application and payment not received by the due date contained in the renewal notice and a failure to timely notify the commissioner of a change of address shall result in the licensee being moved to an unlicensed status and may result in an inspection by the Bedding Program to determine if the licensee continues in business. If the licensee continues to operate, a license or permit shall not be issued until a program inspection occurs and the requirements of the law are satisfied.~~

Inspections will be carried out and completed as required under the law.

**B. Request for information, documents; verifications.**

- ~~1. Upon complaint, the commissioner may request that a licensee provide information and documentation to substantiate its compliance with the requirements of this chapter. The commissioner may also require that the accuracy and completeness of such information and documentation be verified.~~
- ~~2. Upon a finding that a licensee has failed to timely and fully comply with a request for information and documents issued by the commissioner, or failed to substantiate the~~

~~accuracy and completeness of such information and documentation, a review may be conducted by the Bedding Program.~~

~~3. Any holder of a license or permit is required to report to the Bedding Program any occurrences of insect infestation at the licensee's or permit holder's place of business or in any article of new or used bedding or upholstered furniture offered for sale, rent, or use.~~

~~C. B. Inspections of unlicensed entities. Inspections of unlicensed entities and of retailers of bedding and upholstered furniture may be conducted in accordance with § 32.1-25 of the Code of Virginia. Inspections shall be conducted upon receipt of application for a permit or license by an unlicensed entity, the following circumstances:~~

- ~~1. Upon receipt of an application for a license or permit;~~
- ~~2. Upon nonrenewal of a sanitizer, reupholsterer, or renovator permit or upon failure by a permit holder to notify the health commissioner of a change of address within timelines established by 12VAC5-125-50 A resulting in a former permit holder being moved to an unlicensed status;~~
- ~~3. To verify retailer compliance with this chapter; and~~
- ~~4. Pursuant to alleged violations of this chapter observed during inspections resulting from circumstances in subdivision 1, 2, or 3 of this subsection, any subsequent steps taken by the permit holder to comply with this chapter, or as necessary to verify compliance.~~

~~C. All inspections shall be conducted in accordance with § 32.1-25 of the Code of Virginia. Whenever an inspection is conducted, a completed inspection report shall be provided to the license or permit holder or inspected retailer. The inspection report shall contain descriptions of observations made and citations to the alleged violations of this chapter. The report shall provide an opportunity for due process in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).~~

**12VAC5-125-90. Law labels conforming to the Virginia law label requirements.**

~~A. Every importer of and every person manufacturing a new item of bedding or upholstered furniture shall attach securely thereto a substantial General provisions. No law label required by this chapter shall contain false or misleading statements, terms, or designations. Filling materials shall be listed by generic textile names in order of descending predominance. The removal, defacement, or alteration of any law label prior to retail sale is prohibited. Law labels shall contain no advertising matter or anything that detracts from the required statements. No person shall place a mark, tag, sticker, or any other device on a law label that covers the required statements indicated in Figures 1, 2, and 3 unless the Bedding Program provides written approval. No person shall use any law label unless licensed or permitted under this chapter.~~

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All stamp or print on law labels required by this section shall be legible and at least one-eighth of an inch in height and capitalized, unless otherwise indicated in Figures 1, 2, and 3.

B. New bedding and upholstered furniture, filling material. A white cloth tag (law label) or equivalent, visible law label shall be securely attached in a position where it can be conveniently examined on the outside covering of such every item and not less than of new bedding or upholstered furniture, or any filling material, however contained. Law labels shall be made of durable, tear-resistant white cloth or equivalent and shall be at least six square inches in size, upon which. All label printing shall be resistant to fading, bleeding, and abrasion, and all text shall be plainly stamped or printed, in English, the name and address of the manufacturer, importer, or distributor, the registration number of the manufacturer or importer, the kind of filling material used therein, a statement that the filling materials are new, and the number of the permit issued to the

person sterilizing any new feathers, hair, or down in such item and clearly legible. New bedding, upholstered furniture, and filling material shall use the appropriate law label from either Figure 1, Figure 2, or both; use of a Figure 2 law label in addition to the corresponding Figure 1 law label is not a violation of this chapter. Law label contents shall conform to the layout and requirements indicated by Figures 1 and 2, as appropriate. If the filling materials are reclaimed and reprocessed as defined in 12VAC5-125-10, law labels from Figure 1 may contain this statement in the Other Information section: "New filling material is composed of (entirely, partially, or %) reclaimed and reprocessed materials." Law labels for new bedding and upholstered furniture shall be securely attached to the article at the point of manufacture; law labels for filling material shall be securely attached to shipment packaging or printed directly on retail packaging, prior to delivery or shipment.

Figure 1. White tags with black ink for new materials, with or without a percent of reclaimed and reprocessed materials.

<u>BEDDING, SINGLE-COMPONENT ARTICLES, FILLING MATERIAL</u>	<u>FURNITURE, MULTIPLE-COMPONENT ARTICLES WHERE EACH COMPONENT IS AN INTEGRAL PIECE OF THE ITEM</u>	<u>ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION</u>	
<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	
<u>ALL NEW MATERIAL consisting of</u>	<u>ALL NEW MATERIAL consisting of</u> <u>(BODY)</u> <u>(CUSHIONS)</u>	<u>ALL NEW MATERIAL consisting of</u> <u>(FEATHERS)</u> <u>(DOWN)</u> <u>(SPECIFIC TYPE ANIMAL HAIR)</u> <u>CONTENTS STERILIZED</u>	<u>Uppercase text in these rows shall be at least 1/8th inch.</u>
<b><u>REG NO.</u></b>	<b><u>REG NO.</u></b>	<b><u>REG NO. PER NO.</u></b>	
<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>The 1/8th inch font size requirement does not apply to this section.</u>
<b><u>MADE BY (or MADE FOR)</u></b>	<b><u>MADE BY (or MADE FOR)</u></b>	<b><u>MADE BY (or MADE FOR)</u></b>	
<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Uppercase text in these rows shall be at least 1/8th inch.</u>
<u>(Other Information section)</u>	<u>(Other Information section)</u>	<u>(Other Information section)</u>	

<b><u>MADE IN (COUNTRY)</u></b>	<b><u>MADE IN (COUNTRY)</u></b>	<b><u>MADE IN (COUNTRY)</u></b>	<p><u>This section may contain dimensions, FTC, RN#, or other information. No advertising material is allowed. The 1/8th inch font size requirement does not apply to this section.</u></p> <p><u>If filling materials are reclaimed and reprocessed as defined in 12VAC5-125-10, this section may contain the statement "New filling material is composed of (entirely, partially, or %) reclaimed and reprocessed materials".</u></p>
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Figure 1. White tags with black ink for new materials, with or without a % of reclaimed and reprocessed materials.

BEDDING, SINGLE-COMPONENT ARTICLES, FILLING MATERIAL	FURNITURE, MULTIPLE-COMPONENT ARTICLES WHERE EACH COMPONENT IS AN INTEGRAL PIECE OF THE ITEM	ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION	
<b>UNDER PENALTY OF LAW THIS TAG NOT BE BE REMOVED EXCEPT BY THE CONSUMER</b>	<b>UNDER PENALTY OF LAW THIS TAG NOT BE BE REMOVED EXCEPT BY THE CONSUMER</b>	<b>UNDER PENALTY OF LAW THIS TAG NOT BE BE REMOVED EXCEPT BY THE CONSUMER</b>	
ALL NEW MATERIAL consisting of	ALL NEW MATERIAL consisting of (BODY) (CUSHIONS)	ALL NEW MATERIAL consisting of (FEATHERS) (DOWN) (SPECIFIC TYPE ANIMAL HAIR)	Uppercase text in these rows shall be at least 1/8th inch.
<b>REG NO.</b>	<b>REG NO.</b>	<b>REG NO. PER NO.</b>	
Certification is made by the manufacturer that the materials in this article are described in accordance with law.	Certification is made by the manufacturer that the materials in this article are described in accordance with law.	Certification is made by the manufacturer that the materials in this article are described in accordance with law.	----- The 1/8th inch font size requirement does not apply to this section. -----
<b>MADE BY (or MADE FOR)</b> Name and address of manufacturer, importer, or distributor as appropriate	<b>MADE BY (or MADE FOR)</b> Name and address of manufacturer, importer, or distributor as appropriate	<b>MADE BY (or MADE FOR)</b> Name and address of manufacturer, importer, or distributor as appropriate	Uppercase text in these rows shall be at least 1/8th inch.
(Other information section)	(Other information section)	(Other information section)	----- This section may contain dimensions, FTC, RN#, or other information. No advertising material is allowed. The 1/8th inch font size requirement does not apply to this section.  If filling materials are reclaimed and reprocessed as defined in 12VACS-125-10, this section may contain the statement "New filling material is composed of (entirely, partially, or %) reclaimed and reprocessed materials". The word "recycled" may be substituted for "reclaimed and reprocessed". -----
<b>MADE IN (COUNTRY)</b>	<b>MADE IN (COUNTRY)</b>	<b>MADE IN (COUNTRY)</b>	

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Figure 2. White tags with green ink, for use only if new materials contain a percent of reclaimed and reprocessed materials as defined in 12VAC5-125-10.

<b><u>BEDDING, SINGLE-COMPONENT ARTICLES, FILLING MATERIAL</u></b>	<b><u>FURNITURE, MULTIPLE-COMPONENT ARTICLES WHERE EACH COMPONENT IS AN INTEGRAL PIECE OF THE ITEM</u></b>	<b><u>ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION</u></b>	
<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	<b><u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u></b>	
<u>ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of</u>	<u>ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of</u>  <u>(BODY)</u>  <u>(CUSHIONS)</u>	<u>ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of</u>  <u>(FEATHERS)</u>  <u>(DOWN)</u>  <u>(SPECIFIC TYPE ANIMAL HAIR)</u>  <u>CONTENTS STERILIZED</u>	<u>Uppercase text in these rows shall be at least 1/8th inch.</u>
<b><u>REG NO.</u></b>	<b><u>REG NO.</u></b>	<b><u>REG NO. PER NO.</u></b>	
<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>The 1/8th inch font size requirement does not apply to this section.</u>
<b><u>MADE BY (or MADE FOR)</u></b>	<b><u>MADE BY (or MADE FOR)</u></b>	<b><u>MADE BY (or MADE FOR)</u></b>	
<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Name and address of manufacturer, importer, or distributor as appropriate</u>	<u>Uppercase text in these rows shall be at least 1/8th inch.</u>
<u>(Other Information section)</u>	<u>(Other Information section)</u>	<u>(Other Information section)</u>	
<b><u>MADE IN (COUNTRY)</u></b>	<b><u>MADE IN (COUNTRY)</u></b>	<b><u>MADE IN (COUNTRY)</u></b>	<u>This section may contain dimensions, FTC, RN#, or other information. No advertising material is allowed. The 1/8th inch font size requirement does not apply to this section</u>

Figure 2. White tags with green ink, for use only if new materials contain a % of reclaimed and reprocessed materials as defined in 12VACS-125-10.

BEDDING, SINGLE-COMPONENT ARTICLES, FILLING MATERIAL	FURNITURE, MULTIPLE-COMPONENT ARTICLES WHERE EACH COMPONENT IS AN INTEGRAL PIECE OF THE ITEM	ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION
UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER	UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER	UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER
ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of	ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of	ALL NEW MATERIAL (% RECLAIMED AND REPROCESSED MATERIAL) consisting of
	(BODY) (CUSHIONS)	(FEATHERS) (DOWN) (SPECIFIC TYPE ANIMAL HAIR)
CONTENTS STERILIZED		
REG NO.	REG NO.	REG NO. PER NO.
Certification is made by the manufacturer that the materials in this article are described in accordance with law.	Certification is made by the manufacturer that the materials in this article are described in accordance with law.	Certification is made by the manufacturer that the materials in this article are described in accordance with law.
MADE BY (or MADE FOR)	MADE BY (or MADE FOR)	MADE BY (or MADE FOR)
Name and address of manufacturer, importer, or distributor as appropriate	Name and address of manufacturer, importer, or distributor as appropriate	Name and address of manufacturer, importer, or distributor as appropriate
(Other information section)	(Other information section)	(Other information section)
MADE IN (COUNTRY)	MADE IN (COUNTRY)	MADE IN (COUNTRY)

Uppercase text in these rows shall be at least 1/8th inch.

The 1/8th inch font size requirement does not apply to this section.

Uppercase text in these rows shall be at least 1/8th inch.

This section may contain dimensions, FTC, RN#, or other information. No advertising material is allowed. The 1/8th inch font size requirement does not apply to this section.

B. Law labels for new bedding and upholstered furniture shall be securely attached to the article or filling material at the point of manufacture, in a position where they can be conveniently examined. Law labels shall contain no advertising matter, nor anything that detracts or is likely to detract from the required statements. No mark, tag, sticker, or any other device shall be placed upon law labels by any dealer or any other person in such a way as to cover the required statements. No one may possess such law labels outside that facility unless by prior approval of the commissioner for correction purposes.

C. Any person sanitizing, remaking, renovating, or reupholstering any Secondhand, reupholstered, or renovated articles. A yellow law label shall be securely attached in a position where it can be conveniently examined to every secondhand item of bedding or upholstered furniture, or manufacturing any item of bedding or upholstered furniture containing any shoddy or secondhand filling material, shall attach securely to it a substantial yellow cloth tag or equivalent (law label), visible on the outside of such item and not less than. The law label shall be made of durable yellow cardstock paper, cloth, or equivalent and shall be at least six square inches in size, upon which shall be. All writing on the law label shall be resistant to fading, bleeding, and abrasion, and all text shall be plainly stamped or printed, in English, the kind of filling materials used therein, a statement that the item or filling materials are secondhand, and the number of the permit issued to the person who sanitized such item or filling material. The label contents shall be composed according to the layout and requirements indicated by Figure 3, as appropriate. This requirement shall not apply to mattresses that contain a shoddy pad unless it otherwise contains secondhand filling materials.

Figure 3. Yellow tags with black ink for secondhand materials.

<u>SECONDHAND BEDDING OR UPHOLSTERED FURNITURE REQUIRING SANITIZATION</u>	<u>REUPHOLSTERED OR RENOVATED ARTICLES TO BE RETURNED TO ORIGINAL OWNER, NOT REQUIRING SANITIZATION</u>	<u>ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION</u>
<u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u>	<u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u>	<u>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY THE CONSUMER</u>
<u>THIS ARTICLE CONTAINS ALL SECOND-HAND MATERIAL</u>	<u>THIS ARTICLE CONTAINS THE SAME MATERIAL RECEIVED BY THE OWNER, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL:</u>	<u>THIS ARTICLE CONTAINS SECONDHAND MATERIAL, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL:</u>

Uppercase text in these rows shall be at least 1/8th inch.

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<u>CONTENTS SANITIZED</u> <u>Date Sanitized:</u> _____	<u>(LIST)</u>	<u>(LIST)</u> <u>CONTENTS SANITIZED</u> <u>Date Sanitized:</u> _____	
<b><u>PERMIT NO.</u></b>	<b><u>PERMIT NO.</u></b>	<b><u>SAN. PERMIT NO.</u></b> <b><u>RE. PERMIT NO.</u></b>	
<u>Certification is made by the manufacturer that the materials in this article are sanitized in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</u>	<u>Certification is made by the manufacturer that the materials in this article are described and sanitized in accordance with law.</u>	<u>The 1/8th inch font size requirement does not apply to this section.</u>
	The following work has been done:		
	YES NO		
	Old covering removed		
	Frame repaired		
	Spring retied and/or repaired		
	Other: _____		
<b><u>This article must not be sold, it is the property of &amp; must be returned to: Name and address of owner</u></b>	<b><u>SANITIZED BY:</u></b> Name and address of Sanitizer		<u>Uppercase text in these rows shall be at least 1/8th inch.</u> <u>These rows may be combined in Tag 3 if Sanitizer and (Reupholsterer or Renovator) Permits are held by the same person.</u>
<b><u>SANITIZED BY:</u></b>	<b><u>REUPHOLSTERED (or RENOVATED) BY:</u></b>	<b><u>REUPHOLSTERED (or RENOVATED) BY:</u></b>	
<u>Name and address of Sanitizer</u>	<u>Name and address of Reupholsterer or Renovator</u>	<u>Name and address of Reupholsterer or Renovator</u>	
<u>(Other Information section)</u>	<u>(Other Information section)</u>	<u>(Other Information section)</u>	<u>The 1/8th inch font size requirement does not apply to this section.</u>

Figure 3. Yellow tags with black ink for secondhand materials

SECONDHAND BEDDING OR UPHOLSTERED FURNITURE REQUIRING SANITIZATION	REUPHOLSTERED OR RENOVATED ARTICLES TO BE RETURNED TO ORIGINAL OWNER, NOT REQUIRING SANITIZATION	ITEMS CONTAINING MATERIALS REQUIRING STERILIZATION
<p>UNDER PENALTY OF LAW THIS TAG NOT BE REMOVED EXCEPT BY THE CONSUMER</p> <p>THIS ARTICLE CONTAINS ALL SECOND-HAND MATERIAL CONTENTS UNKNOWN</p> <p>CONTENTS SANITIZED Date Sanitized: _____</p> <p>PERMIT NO. _____</p> <p>Certification is made by the manufacturer that the materials in this article are sanitized in accordance with law.</p> <p>SANITIZED BY: Name and address of Sanitizer (Other information section)</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT BE REMOVED EXCEPT BY THE CONSUMER</p> <p>THIS ARTICLE CONTAINS THE SAME MATERIAL RECEIVED BY THE OWNER, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: (LIST)</p> <p>CONTENTS SANITIZED Date Sanitized: _____</p> <p>PERMIT NO. _____</p> <p>Certification is made by the manufacturer that the materials in this article are described in accordance with law. The following work has been done: YES NO Old covering removed _____ Frame repaired _____ Spring retied and/or repaired _____ Other _____</p> <p>This article must not be sold, if it is the property of &amp; must be returned to: Name and address of owner</p> <p>REUPHOLSTERED (or RENOVATED) BY: Name and address of Reupholsterer or Renovator (Other information section)</p>	<p>UNDER PENALTY OF LAW THIS TAG NOT BE REMOVED EXCEPT BY THE CONSUMER</p> <p>THIS ARTICLE CONTAINS SECONDHAND MATERIAL, TO WHICH HAS BEEN ADDED THE FOLLOWING NEW MATERIAL: (LIST)</p> <p>CONTENTS SANITIZED Date Sanitized: _____ SAN. PERMIT NO. _____ RE. PERMIT NO. _____</p> <p>Certification is made by the manufacturer that the materials in this article are described and sanitized in accordance with law.</p> <p>SANITIZED BY: Name and address of Sanitizer</p> <p>REUPHOLSTERED (or RENOVATED) BY: Name and address of Reupholsterer or Renovator (Other information section)</p>
		<p>Uppercase text in these rows shall be at least 1/8th inch.</p> <p>The 1/8th inch font size requirement does not apply to this section.</p> <p>Uppercase text in these rows shall be at least 1/8th inch. These rows may be combined in Tag 3 if Sanitizer and (Reupholsterer or Renovator) Permits are held by the same person.</p> <p>The 1/8th inch font size requirement does not apply to this section.</p>

D. Any person shipping or delivering filling material, however contained, shall have conspicuously attached thereto a law label upon which shall be stamped or printed, as provided in § 32.1-219 of the Code of Virginia or as provided in this chapter, the kind of material, whether the material is new or secondhand, the name, address, and registration number of the manufacturer or importer, and the permit number of the person who sterilized or sanitized such material.

E. The stamp or print on law labels required by this section shall be in type not less than three millimeters in height.

F. It shall be unlawful to use any false or misleading statement, term or designation on any tag required by this chapter or to remove, deface or alter, or to attempt to remove, deface or alter any such tag or the statement of filling materials made thereon, prior to retail sale.

G. No person shall use or have in his possession with intent to use any tag provided for in this chapter unless such person holds a license or permit issued to him pursuant to this chapter. No person shall sell, give or in any way provide such law labels to anyone who does not have a license, or permit issued to him pursuant to this chapter, or is not allowed to use such a tag pursuant to this provision.

(Specific law label requirements contained in Attachments 1 through 7)

ATTACHMENT 1

THE FOLLOWING LABELS COMPLY WITH THE VIRGINIA LAW

NO. 1

WHITE LABEL FOR ALL NEW MATERIAL

For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.

<p><b>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</b></p>
Description space



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# Regulations

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Printing to be in English using capital letters

not less than 3mm in height

→

See NOTE (3) at bottom of page.→

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock information, etc., here.

→

**ALL NEW MATERIAL**

CONSISTING OF

---

---

REG. NO.

---

---

**Certification is made by the manufacturer**

**that the materials in this article are**

**described in accordance with law.**

---

---

MADE BY

(NAME OF MANUFACTURER OR VENDOR)

(ADDRESS OF MANUFACTURER OR VENDOR)

**Date of Delivery** \_\_\_\_\_

(Additional Information)

Note:

(1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another state, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

ATTACHMENT 2

NO. 2

WHITE LABEL FOR ALL NEW MATERIAL

ARTICLES WITH EXTRA CUSHIONS AS AN

INTEGRAL PART OF UNIT

For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

See NOTE (3) at bottom of page. →

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock information, etc., here.

→

**UNDER PENALTY OF LAW THIS TAG NOT TO BE  
REMOVED EXCEPT BY CONSUMER**

**ALL NEW MATERIAL**

CONSISTING OF

BODY

CUSHIONS

REG. NO.

**Certification is made by the manufacturer**

**that the materials in this article are**

**described in accordance with law.**

MADE BY

(NAME OF MANUFACTURER OR VENDOR)

(ADDRESS OF MANUFACTURER OR VENDOR)

Date of Delivery \_\_\_\_\_

(Additional Information)

Note:

(1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another state, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

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# Regulations

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ATTACHMENT 3

NO. 3

~~WHITE LABEL FOR ALL NEW MATERIAL~~

~~For Animal and Fowl and Any Other Filling Material Requiring Sterilization~~

~~SPACE TO ATTACH →~~

~~In bold, black ink, minimum type size 3mm in height~~

~~→~~

~~Space for description of filling material.~~

~~Printing to be in English using capital letters~~

~~not less than 3mm in height~~

~~→~~

~~See NOTE (3) at bottom of page. →~~

~~Required in Virginia →~~

~~"Date of Delivery" line of Manufacturer's stock information, etc., here.~~

~~→~~

<hr/> <hr/> <p><b>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</b></p> <hr/> <hr/>
<p><b>ALL NEW MATERIAL</b></p> <p>CONSISTING OF</p> <hr/> <hr/>
<p>REG. NO. PERMIT NO.</p> <hr/> <hr/>
<p><b>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</b></p> <hr/> <hr/>
<p><b>CONTENTS</b></p> <p><b>STERILIZED</b></p> <hr/> <hr/>
<p>MADE BY</p> <p>(NAME OF MANUFACTURER OR VENDOR)</p> <p>(ADDRESS OF MANUFACTURER OR VENDOR)</p> <p><b>Date of Delivery</b> _____</p> <p>(Additional Information)</p>

Note:

(1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another state, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

(4) Virginia will accept the PERMIT NO. issued by another state if applicant so desires providing approval is granted and a Virginia Sterilization Permit is issued to applicant bearing such number.

ATTACHMENT 4

NO. 4

~~YELLOW LABEL FOR ARTICLES THAT HAVE BEEN REMADE AND~~

~~RENOVATED FOR CONSUMER AND THAT CONTAIN~~

~~SECONDHAND MATERIAL IN WHOLE OR IN PART~~

If new filling material has been added, state type in space provided

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material:

Printing to be in English using capital letters

not less than 3mm in height

→

Registration number or name of person or firm that renovated article

→

<hr/> <hr/> <p><b>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</b></p> <hr/> <hr/>	
<p>Space for description of filling material:</p>	<p><b>This article contains the same material received from the owner, to which has been added the following New material.</b></p> <hr/> <hr/>
<p>Printing to be in English using capital letters</p>	<p><b>The following work has been done:</b></p>
<p>not less than 3mm in height</p>	<p><b>YES NO</b></p>
<p>→</p>	<p><input type="checkbox"/> <input type="checkbox"/> <b>Old covering completely removed</b></p>
<p>Registration number or name of person or firm that renovated article</p>	<p><input type="checkbox"/> <input type="checkbox"/> <b>Frame repaired</b></p>
<p>→</p>	<p><input type="checkbox"/> <input type="checkbox"/> <b>Spring retied and/or repaired</b></p>
	<p><b>OTHER:</b> _____</p> <hr/> <hr/>
	<p>REG. NO. VA. _____</p>

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# Regulations

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<p>_____</p> <p><b>This article must not be sold, it is the property of and must be returned to:</b></p> <p><b>Name</b> _____</p> <p><b>Address</b> _____</p> <p>_____</p> <p><b>REMADE AND RENOVATED BY</b></p> <p>Date _____</p> <p>(Additional Information)</p>
--

Note:

(1) All above printing in black ink on yellow vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

(3) If secondhand filling material is added instead of new, article is required to be sanitized and Law Label No. 6 shall be used stating Permit No. of person or firm doing the sanitizing.

~~ATTACHMENT 5~~

~~NO. 5~~

~~YELLOW LABEL FOR ARTICLES CONTAINING~~

~~ALL SECONDHAND MATERIAL OFFERED~~

~~FOR SALE OR RENT "AS IS"~~

~~REQUIRED TO BE SANITIZED~~

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

<p>_____</p> <p><b>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</b></p> <p>_____</p> <p><b>THIS ARTICLE CONTAINS</b></p> <p><b>ALL SECOND HAND MATERIAL</b></p> <p><b>CONTENTS UNKNOWN</b></p>
--

Permit number of person or firm who sanitized

article →

Required in Virginia →

PERMIT NO.
<b>Certification is made by the manufacturer</b>
<b>that the materials in this article are</b>
<b>described in accordance with law.</b>
SANITIZED
SANITIZED BY
<b>Date Sanitized</b>
(Additional Information)

Note:

(1) All above printing in black ink on yellow vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

ATTACHMENT 6

NO. 6

YELLOW LABEL FOR ARTICLES THAT HAVE BEEN RENOVATED

FOR RESALE AND THAT CONTAIN

SECONDHAND MATERIAL IN WHOLE OR IN PART

REQUIRED TO BE SANITIZED

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

<b>UNDER PENALTY OF LAW THIS TAG NOT TO BE</b>
<b>REMOVED EXCEPT BY CONSUMER</b>

---

# Regulations

---

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

Registration number of person or firm who

renovated article. Permit number of person or firm who sanitized  
article

→

Required in Virginia →

**THIS ARTICLE CONTAINS**

**SECOND HAND MATERIAL**

**TO WHICH HAS BEEN ADDED**

\_\_\_\_\_

**REG. NO. PERMIT NO.**

\_\_\_\_\_

**Certification is made by the manufacturer**

**that the materials in this article are**

**described in accordance with the law.**

\_\_\_\_\_

**CONTENTS**

**SANITIZED**

\_\_\_\_\_

**REMADE AND RENOVATED BY**

**RENOVATOR NAME** \_\_\_\_\_

**RENOVATOR ADDRESS** \_\_\_\_\_

**Date Sanitized**

\_\_\_\_\_

(Additional Information)

## Note:

(1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

ATTACHMENT 7

NO. 7

WHITE LABEL FOR ALL NEW MATERIAL

ARTICLES IMPORTED INTO THE UNITED STATES

For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

In bold, black ink, minimum type size 3mm in height

→

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

See NOTE (3) at bottom of page. →

Required in Virginia →

"Date of Delivery" line of Manufacturer's stock information, etc., here.

→

Name of country where factory is located

→

<b>UNDER PENALTY OF LAW THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER</b>
<b>ALL NEW MATERIAL</b>
CONSISTING OF
REG. NO.
<b>Certification is made by the manufacturer that the materials in this article are described in accordance with law.</b>
<b>IMPORTED BY</b>
Date of Delivery _____
<b>MADE IN</b>

Note:

(1) All above printing in black ink on white vellum cloth or a material of comparable quality, which shall not flake out when abraded.

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not less than (six) square inches, but may be greater as the need demands.

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another state, if registrant so desires, providing such registration follows the policy of uniform registration. This policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and the two letter abbreviation of the country in which factory is located shall follow the registration number in parenthesis.



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# Regulations

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## **12VAC5-125-100. Sanitization of used Secondhand bedding and upholstered furniture.**

A. ~~No person engaged in commerce article of secondhand bedding or upholstered furniture shall rent, offer or expose for sale, barter, give away, or dispose of in any other commercial manner any article of bedding or upholstered furniture made, remade, reupholstered or renovated in violation of § 32.1-213 or 32.1-214 of the Code of Virginia or any secondhand article of bedding or upholstered furniture be sold unless since last used use such secondhand article has been sanitized by a reasonable process approved by the commissioner permitted sanitizer in accordance with this chapter.~~

~~However, a retailer may sell, give away, or rent used upholstered furniture when the used upholstered furniture has been purchased by the retailer as new furniture and has been used in the course of business. Such used furniture shall be (i) conspicuously identified as used furniture, and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.~~

~~B. No person shall use in the making, remaking, reupholstering, or renovating of any bedding or upholstered furniture any shoddy or any fabric from which shoddy is made or any secondhand filling material or any secondhand, feathers, animal hair, or down, in the manufacture, reupholstery, or renovation of bedding and upholstered furniture unless such shoddy, secondhand filling material, feathers, animal hair, or down has been sanitized by a reasonable process approved by the commissioner permitted sanitizer in accordance with this chapter.~~

~~Any reupholstered or renovated bedding or upholstered furniture sold to a customer who was not the original owner of the item must be sanitized by a permitted sanitizer in accordance with this chapter.~~

~~C. Steri-Fab or Microban, or a comparable product approved by the commissioner meeting all the qualities and specifications of these chemicals, are the industry recognized chemicals for sanitizing and disinfecting mattresses, bedding or upholstered furniture. This process is required for any business sanitizing used, secondhand or renovated mattresses, box springs, or similar articles of bedding or upholstered furniture offered for resale or rent in Virginia. The use of these chemicals in compliance with the specific instructions from the product manufacturers is deemed a reasonable sanitization process approved by the commissioner. All licensees are required to follow all product application, safety, storage, and disposal. B. Persons applying for approval of a process by which filling materials, bedding, or upholstered furniture are sanitized shall submit to the Bedding Program a description of the process, test results, apparatus, and method to be used in such process. The following general processes are considered approved methods of sanitization; a list of specific approved products and methods shall be maintained by the Bedding Program:~~

1. The application of an approved isopropyl-alcohol solution via direct spray onto the filling materials, bedding, or upholstered furniture item. Application shall reach and treat all surfaces, seams, piping, and other design features of the item. Application, storage, and disposal of the isopropyl-alcohol solution shall be performed according to instructions provided by the product manufacturers. It is a violation of federal law to use Steri-Fab or Microban disinfectant in a manner inconsistent with its labeling. Diluting or mixing with other chemicals is prohibited.

2. Heat treatment, via containment in a heat chamber or direct application of steam. All submersion heat treatment methods shall exceed the temperature and time duration necessary to reach the thermal death point for bedbugs (113°F (45°C) for 90 minutes). All steam applications shall be designed to reach and treat all surfaces, seams, piping, and other design features of the article to be sanitized and shall be conducted at a pace of 12 inches of article per 30 seconds, unless otherwise approved as provided in subsection B of this section.

C. Unsanitized secondhand bedding and upholstered furniture shall be separated from new or sanitized secondhand bedding or upholstered furniture by a dividing wall or a distance of at least 20 feet.

D. Yellow law labels must shall in compliance with 12VAC5-125-90 be attached and dated to all sanitized articles as soon as the approved sanitizing process is completed.

E. Persons donating (no monetary exchange) secondhand articles of bedding and upholstered furniture are not required to sanitize those articles if the donation is to a holder of a valid sanitizing permit. Any items sold (monetary exchange) must be sanitized first. A delivery vehicle used to transport secondhand unsanitized bedding and upholstered furniture must be sanitized by a process approved by subsection B of this section before it is used to transport new or secondhand sanitized products. Such sanitization shall include the entirety of the inside of the transport portion of the vehicle; however, any area not used for transport separated from the storage portion of the vehicle by a wall or partition shall not require sanitization.

F. Persons dealing in used selling secondhand bedding and upholstered furniture, unless otherwise exempt from this chapter as considered in 12VAC5-125-40, shall maintain a log of sanitized items bedding and upholstered furniture, indicating the identification of each sanitized item, and the date the item was sanitized, and date rented or sold. Identification shall be by visual description, of sufficient detail to allow identification of any sanitized item offered for sale or by a unique number also printed in the Other Information section of the yellow law label. A separate log shall be maintained in each vehicle sanitized as required by subsection E of this section; this log shall indicate the dates of all sanitization events for that vehicle within the previous 12 months.

G. To ensure effective sanitization is maintained, mattresses shall be stored at least six inches or the height of one standard pallet off the floor in a dry room and spaced to allow a four-inch separation around the four sides of the mattresses. All areas where secondhand bedding or upholstered furniture are stored, rebuilt, recovered, or presented for sale shall be kept clean and free of trash, hazardous waste, insects, rodents, pets, or other animals. Permit holders shall report to the Bedding Program any infestations of insects or rodents at the permit holder's place of business, or in any bedding or upholstered furniture offered for sale by the permit holder.

**12VAC5-125-110. Sterilization of new animal hair, feathers and down.**

A. No person shall use in the making, remaking, reupholstering or renovating of any bedding or upholstered furniture any new animal hair, new feathers, or new down article of new bedding or upholstered furniture using animal hair, feathers, or down for filling material shall be sold or offered for sale unless such new animal hair, new feathers, or new down shall have ~~has~~ been sterilized by a reasonable process approved by the commissioner permitted sterilizer in accordance with this chapter.

B. Persons applying for approval of a process by which animal hair, feathers, or down are sterilized shall submit to the Bedding Program a description of the process, test results, and any apparatus and method to be used in such process. The following general processes are considered approved methods of sterilization; a list of specific methods and products shall be maintained by the Bedding Program.

1. Treatment by steam under pressure, at 15 pounds maintained for 30 minutes or at 20 pounds maintained for 20 minutes. A gauge for registering steam pressure visible from the outside of the room shall be provided.
2. Treatment by two applications of streaming steam, maintained for a period of one hour each, and applied at intervals of not less than six nor more than 24 hours. Valved outlets shall be provided near the top and bottom of the room.
3. Containment in a closed container held at a temperature of 235°F (113°C) for two hours.
4. Washing at a temperature of at least 140°F (60°C), followed by complete drying at a temperature of at least 158°F (70°C).

**12VAC5-125-120. Separation and storage of new and sanitized items. (Repealed.)**

A. New and sanitized upholstered furniture, bedding and filling materials shall be kept separate from any secondhand upholstered furniture, bedding and filling materials that have not been sanitized. To prevent contamination, a distance of at least 20 feet or a dividing wall must be kept between new and

sanitized articles, and unsanitized used articles of bedding and upholstered furniture.

B. Delivery vehicles shall be disinfected before delivering new or sanitized items if that vehicle has been used to previously transport unsanitized used merchandise, not limited to bedding and upholstered furniture.

C. Mattresses shall be stored at least six inches from the floor or the height of one standard pallet (whatever is greater) in a dry room preferably above ground, and so spaced to allow a four-inch separation around the four sides of the mattresses. The storage as well as workroom areas for sanitized items shall be clean and free from trash, vermin, insects, filth and any hazardous waste. Pets and other animals shall be prohibited in storage and workroom areas.

**12VAC5-125-130. Violation of regulations.**

A. It is the responsibility of the retailer to ~~make certain~~ ensure that any article of bedding or upholstered furniture that he ~~offers offered~~ for sale in the Commonwealth of Virginia, regardless of where manufactured, is properly labeled and is in compliance with all provisions of the law this chapter.

B. Upon a complaint made to the commissioner as provided in § 32.1-224 of the Code of Virginia, the commissioner may order the return of any item of bedding or upholstered furniture or any filling material made, remade, renovated, reupholstered, prepared, processed, labeled, or not labeled in violation of the provisions of this chapter to the manufacturer or importer thereof. The manufacturer or importer shall be liable to the person returning such item for the costs of crating, shipping and the invoice price to the purchaser. Failure of a manufacturer or importer to pay such costs to the person returning such item shall be grounds for revocation or suspension of a license issued pursuant to this chapter.

~~C. B.~~ The commissioner or his designee health commissioner may order "off sale" all any improperly sanitized or unsanitized articles of secondhand bedding or upholstered furniture "off sale". A significant number of violations in any one business location will may result in a sign being placed on the business door taking off sale all used bedding and upholstered items in the store. These items may not be bartered, given away, rented, or disposed of in any manner inconsistent with this chapter until properly sanitized.

D. The commissioner may refuse to issue, may suspend or may revoke the license or permit of any person who violates any provision of this chapter, or who is not a resident of the Commonwealth and fails or refuses to enter an appearance in any circuit court in the Commonwealth to answer a charge or charges of violation of any provision of this chapter, or order of the board or commissioner within 25 days after service upon him of a notice by certified mail.

E. Any violation of the provisions of this chapter shall constitute a prohibited practice in accordance with § 59.1-200

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# Regulations

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of the Code of Virginia and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia) C. Any person who violates this chapter shall be subject to enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq. of the Code of Virginia) and penalties provided by § 32.1-27 of the Code of Virginia.

~~F. Any person violating any provision of this chapter shall be guilty of a Class 2 misdemeanor pursuant to § 32.1-226 of the Code of Virginia.~~

## **12VAC5-125-140. Enforcement of regulation. (Repealed.)**

~~A. This chapter shall be enforced by the board and the commissioner, as executive officer of the board.~~

~~B. All persons shall operate in compliance with the requirements set forth in this chapter and shall not operate without a valid license or permit.~~

~~C. Pursuant to the authority granted in § 32.1-224 of the Code of Virginia, the commissioner may issue orders to require any license or permit holder or other person to comply with the provisions of this chapter. The order may require the following:~~

- ~~1. The immediate cessation and correction of the violation;~~
- ~~2. Appropriate remedial action to ensure that the violation does not continue or recur;~~
- ~~3. The submission of a plan to prevent future violations;~~
- ~~4. Any other corrective action deemed necessary for proper compliance with the regulations, and safety and health of the consumers of the Commonwealth.~~

~~D. Before the issuance of an order, the commissioner must comply with the requirements of § 32.1-26 of the Code of Virginia.~~

~~E. All orders issued pursuant to subsection C of this section shall become effective not less than 15 days after mailing a copy thereof by certified mail to the last known address of the license or permit holder or person violating this chapter.~~

~~F. The commissioner may act as the agent of the board to enforce all effective orders and these regulations. Should any license or permit holder fail to comply with any effective order or these regulations, the commissioner may:~~

- ~~1. Institute a proceeding to revoke the license or permit in accordance with 12VAC5-125-60;~~
- ~~2. Request the attorney for the Commonwealth to bring a criminal action;~~
- ~~3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or~~
- ~~4. Do any combination of the above.~~

~~G. Not exclusive means of enforcement. Nothing contained in this section shall be interpreted to require the commissioner to issue an order prior to seeking enforcement of any regulations or statute through an injunction, mandamus or criminal prosecution.~~

~~H. Hearings before the commissioner or his designee shall include any of the following forms depending on the nature of the controversy and the interests of the parties involved:~~

- ~~1. Informal hearings. An informal hearing is a meeting with the Bedding Program Supervisor presiding and held in conformance with § 2.2-4019 of the Code of Virginia.~~
- ~~2. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding before the commissioner, or his designated hearing officer, and held in conformance with § 2.2-4020 of the Code of Virginia.~~

## **12VAC5-125-145. Variances.**

A. One or more of the provisions in this chapter may be waived in whole or in part when, as determined by the health commissioner, the hardship imposed by the provision, which may be economic, outweighs the benefits that may be received by the public and that granting such a variance does not subject the public to unreasonable health risks. Variances shall be issued in writing by the health commissioner.

B. Any person who seeks a variance shall apply in writing to the Bedding Program. The application shall include:

1. A citation to the regulation from which a variance is requested;
2. The nature and duration of the variance requested;
3. Evidence that establishes that the public health and welfare would not be adversely affected if the variance were granted;
4. Suggested conditions that might be imposed on the granting of a variance that would limit the detrimental impact on the public health and welfare;
5. Other information believed pertinent by the applicant; and
6. Such other information as the Bedding Program or health commissioner may require.

C. If the health commissioner proposes to grant the variance request, the applicant shall be notified in writing of this decision within 90 days of receipt of the variance request. If the health commissioner proposes to deny the variance request, the health commissioner shall notify the applicant of the proposed denial within 90 days of receipt of the variance request and provide an opportunity for an informal fact-finding conference as provided in § 2.2-4019 of the Code of Virginia.

## **12VAC5-125-150. Request for hearing. (Repealed.)**

~~A request for an informal hearing shall be made by sending the request in writing to the Bedding Program. Requests for~~

hearings shall cite the reasons for the hearing request and shall cite the section(s) of these regulations involved and must be received within 15 days of the decision by the department that lead to the hearing request.

**12VAC5-125-160. Hearing as a matter of right. (Repealed.)**

Any person holding a license or permit or named party whose rights, duties, or privileges have been, or may be affected by any case decision of the board or its subordinates in the administration of these regulations, shall have a right to both informal and adjudicatory hearings. The commissioner may require participation in an informal hearing before granting the request for a full adjudicatory hearing. Exception: No person other than an owner shall have the right to an adjudicatory hearing to challenge the issuance of a license or permit unless the person can demonstrate at an informal hearing that the minimum standards contained in these regulations have not been applied and that he will be injured in some manner by the issuance of the license or permit.

**12VAC5-125-170. Penalties, injunctions, civil penalties and charges for violations. (Repealed.)**

A. Any person willfully violating, or refusing, failing, or neglecting to comply with any regulations or order of the board or commissioner, or any provision of this chapter, shall be guilty of a Class 2 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

B. Any person violating, or failing, neglecting, or refusing to obey any order of the board or commissioner, or any provision of this chapter may be compelled, in a proceeding instituted in an appropriate court by the board or commissioner, to obey and comply with such regulations, order, or any applicable provision of Title 32.1 of the Code of Virginia. The proceeding may be by injunction, mandamus, or other appropriate remedy.

C. Without limiting the remedies that may be obtained pursuant to subsection B of this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection B of this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation. Each day of violation shall constitute a separate offense.

D. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the board or commissioner or any applicable provision of Title 32.1 of the Code of Virginia, the board may provide, in an order issued by the board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit set forth in subsection C of this section. Such civil charges shall be in place of any appropriate civil penalty that could be imposed under subsection C of this section.

**12VAC5-125-180. Fees.**

The board State Board of Health shall set the annual fees imposed for licenses and permits issued pursuant to this chapter.

All fees collected shall be deposited and held by the department in a separate fund, from which shall be paid all expenditures necessary in carrying out the provisions of this chapter.

The board shall review the fees being charged for the services delivered by the department pursuant to Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1 as such services and fees were in effect prior to July 1, 2003, and shall revise such fees, as appropriate, consistent with the level of services required by this chapter.

The fee Table 1. Fee schedule established by the board is as follows:

<u>Vendor Description: License or Permit Type</u>	<u>Annual Fee: (U.S. Dollars)</u>
Manufacturer of bedding	\$100
Manufacturer of upholstered furniture	\$100
Renovator (bedding)*	\$25
Reupholsterer*	\$25
Supply dealer	\$25
Importer	\$100 <u>see Table 2</u>
Sanitizer	\$60
<u>Sterilizer</u>	<u>\$60</u>
<u>Distributor/wholesaler Distributor</u>	<u>\$100 see Table 2</u>

\*Self-employed renovators and reupholsterers with no employees are excluded from this fee.

Table 2. Importer and distributor license fees

<u># of Associated URNs</u>	<u>Importer Annual Fee (U.S. Dollars)</u>
<u>1</u>	<u>\$100</u>
<u>2</u>	<u>\$100</u>
<u>3</u>	<u>\$300</u>
<u>4</u>	<u>\$400</u>
<u>5-9</u>	<u>\$805</u>
<u>10-14</u>	<u>\$1,380.00</u>
<u>15-19</u>	<u>\$1,995.00</u>
<u>20-24</u>	<u>\$2,530.00</u>
<u>25-29</u>	<u>\$3,105.00</u>
<u>30-34</u>	<u>\$3,680.00</u>
<u>35-39</u>	<u>\$4,255.00</u>
<u>40-44</u>	<u>\$4,830.00</u>

# Regulations

<u>45-49</u>	<u>\$5,405.00</u>
<u>50-54</u>	<u>\$5,980.00</u>
<u>55-59</u>	<u>\$6,555.00</u>
<u>60-64</u>	<u>\$7,130.00</u>
<u>65-69</u>	<u>\$7,705.00</u>
<u>70-74</u>	<u>\$8,280.00</u>
<u>75-79</u>	<u>\$8,855.00</u>
<u>80-84</u>	<u>\$9,430.00</u>
<u>85-89</u>	<u>\$10,005.00</u>
<u>90-94</u>	<u>\$10,580.00</u>
<u>95-99</u>	<u>\$11,155.00</u>
For 100 or more licenses, the additional fee for each increment of five licenses is \$575.	

~~DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-125)~~

~~2004 Manual of Labeling Laws, Registration Requirements, International Sleep Products Association.~~

VA.R. Doc. No. R19-5798; Filed March 4, 2022, 2:18 p.m.

## TITLE 14. INSURANCE

### STATE CORPORATION COMMISSION

#### Proposed Regulation

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

**Title of Regulation:** **14VAC5-41. Rules Governing Advertisement of Life Insurance and Annuities (amending 14VAC5-41-80).**

**Statutory Authority:** §§ 12.1-13 and 38.2-223 of the Code of Virginia.

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

**Public Comment Deadline:** April 29, 2022.

**Agency Contact:** Jackie Myers, Chief Insurance Market Examiner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23218, telephone (804) 3719630, or email [jackie.myers@scc.virginia.gov](mailto:jackie.myers@scc.virginia.gov).

#### Summary:

*The proposed amendments align the regulation with guidance prepared by the National Association of Insurance Commissioners in its Advertisements of Life Insurance and Annuities Model Regulation regarding the use of the terms "inexpensive" and "low cost" and other similar terms used to describe policies that may mislead consumers.*

AT RICHMOND, MARCH 7, 2022

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. INS-2022-00023

Ex Parte: In the matter of Amending  
Rules Governing Advertisement of  
Life Insurance and Annuities

#### ORDER TO TAKE NOTICE

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

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code are set forth in Title 14 of the Virginia Administrative Code. A copy also may be found here: <https://law.lis.virginia.gov/admincode/title14/agency5/>.

The Bureau of Insurance ("Bureau") has undertaken a review of Chapter 41 of Title 14 of the Virginia Administrative Code, entitled "Rules Governing Advertisement of Life Insurance and Annuities", 14 VAC 5-41-10 et seq. ("Rules"). As stated in 14 VAC 5-41-10 A, the Rules provide "minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts." As part of its review, the Bureau has considered marketing practices in life insurance and annuity advertisements that employ the phrases "inexpensive," "low cost," and similar terms, and concerns that such terms may mislead consumers.

As a result of its review, the Bureau has submitted to the Commission a proposal to amend 14 VAC 5-41-80 of the Virginia Administrative Code. These amendments are necessary to address the concern with the use of the above-referenced phrases on an industry-wide basis in Virginia and to more closely align the Rules with guidance prepared by the National Association of Insurance Commissioners in its Advertisements of Life Insurance and Annuities Model Regulation, which addresses the use of "inexpensive," "low cost," and similar terms.

NOW THE COMMISSION is of the opinion that the proposal to amend the Rules set forth in Chapter 41 of Title 14 in the Virginia Administrative Code as submitted by the Bureau should be considered for adoption with a proposed effective date of September 1, 2022.

Accordingly, IT IS ORDERED THAT:

(1) The proposed amendments to the Rules Governing Advertisement of Life Insurance and Annuities, as set out at 14 VAC 5-41-80 of the Virginia Administrative Code, are attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or request a hearing to oppose, the adoption of the proposed amended rules shall file such comments or hearing request on or before April 29, 2022, with the Clerk of the Commission, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2022-00023. Interested persons desiring to submit comments electronically may do so by following the instructions at the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information). All comments shall refer to Case No. INS-2022-00023.

(3) If no written request for a hearing on the adoption of the proposed amended rules as outlined in this Order is received on or before April 29, 2022, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposal, may adopt the rules as submitted by the Bureau.

(4) The Bureau shall provide notice of the proposal to all carriers licensed in Virginia to write life insurance, annuities or variable annuities and to all interested persons.

(5) The Commission's Office of General Counsel shall cause a copy of this Order, together with the proposal to amend the rules, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) The Commission's Division of Information Resources shall make available this Order and the attached proposal on the Commission's website: [scc.virginia.gov/pages/Case-Information](http://scc.virginia.gov/pages/Case-Information).

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

(8) This matter is continued.

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

the Bureau of Insurance in care of Deputy Commissioner Julie S. Blauvelt.

**14VAC5-41-80. Policy costs and cost comparisons.**

A. The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor and the amount of the payment shall be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

B. An advertisement ~~of for a particular policy marketed by direct response techniques or a life insurance policy containing graded or modified benefits~~ shall not use the phrase "affordable," "inexpensive," "low cost," or any ~~similar term unless that fact is capable of being demonstrated to the satisfaction of the commission~~ phrase or word of similar import when the policy being advertised is guaranteed issue.

C. An advertisement shall not imply or state that all older policies are more or less costly than newer policies.

D. An advertisement of two or more policies sold as a "package" or other combination shall not direct attention improperly at the cost competitiveness of one part of the "package" when the cost competitiveness of that part is not indicative of the cost competitiveness of the "package" as a whole.

E. An advertisement of a single policy shall not direct attention improperly at the cost competitiveness of a part of the policy when the cost competitiveness of that part is not indicative of the cost competitiveness of the entire policy.

F. An advertisement of a policy at a particular issue age, sex, or amount shall not lead prospective policyholders to believe that the cost competitiveness of the policy is similar at other issue ages, sex, or amounts unless that is a fact.

G. An advertisement containing a cost comparison of two or more policies with nonguaranteed policy elements in which the method of investment income allocation differs between or among the policies shall state that fact and shall contain a brief explanation of the implications of the cost comparison.

VA.R. Doc. No. R22-7085; Filed March 8, 2022, 9:43 a.m.



## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

## BOARD OF DENTISTRY

### CEMETERY BOARD

### Forms

#### Final Regulation

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

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

**Title of Regulation:** 18VAC47-20. Cemetery Board Rules and Regulations (amending 18VAC47-20-140).

**Titles of Regulations:** 18VAC60-21. Regulations Governing the Practice of Dentistry.

**Statutory Authority:** §§ 54.1-201 and 54.1-2313 of the Code of Virginia.

18VAC60-25. Regulations Governing the Practice of Dental Hygiene.

**Effective Date:** May 1, 2022.

18VAC60-30. Regulations Governing the Practice of Dental Assistants.

**Agency Contact:** Christine Martine, Executive Director, Cemetery Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email [cemetery@dpor.virginia.gov](mailto:cemetery@dpor.virginia.gov).

**Agency Contact:** Elaine Yeatts, Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, FAX (804) 527-4434, or email [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov).

#### Summary:

*The amendments provide a temporary reduction in renewal fees for cemetery company licenses and sales personnel registrations in compliance with § 54.1-113 of the Code of Virginia.*

FORMS (18VAC60-21)

[Instructions for a Faculty License to Teach Dentistry \(rev. 7/2021\)](#)

[Instructions for Registration for Volunteer Dental Practice \(rev. 8/2020\)](#)

[Instructions for a Temporary Resident's License \(rev. 7/2021\)](#)

[Instructions for a Temporary Dental Permit \(rev. 7/2021\)](#)

~~[Application for a Permit to Administer Moderate Sedation \(rev. 8/2020\)](#)~~

~~[Instructions for a Permit to Administer Deep Sedation/General Anesthesia \(rev. 8/2020\)](#)~~

~~[Instructions for Reinstatement of a Permit to Administer Moderate Sedation or Deep Sedation/General Anesthesia \(rev. 8/2020\)](#)~~

[Application for a Permit to Administer Moderate Sedation \(rev. 2/2022\)](#)

[Instructions for a Permit to Administer Deep Sedation/General Anesthesia \(rev. 2/2022\)](#)

[Instructions for Reinstatement of a Permit to Administer Moderate Sedation or Deep Sedation/General Anesthesia \(rev. 2/2022\)](#)

[Instructions for Certification to Perform Cosmetic Procedures \(rev. 8/2020\)](#)

[Instructions for Reinstatement of Certification to Perform Cosmetic Procedures \(rev. 8/2020\)](#)

[Instructions for Restricted Volunteer Dental License \(rev. 7/2021\)](#)

#### 18VAC47-20-140. Renewal and reinstatement fees.

A. All fees required by the board are nonrefundable. The date on which the fee is received by the department or its agent shall determine whether the licensee or registrant is eligible for renewal or reinstatement or must reapply as a new applicant.

Renewal of cemetery company license	\$580 per cemetery
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Renewal of sales personnel registration	\$60 per cemetery
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Reinstatement of cemetery company license	\$580 per cemetery
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Reinstatement of sales personnel registration	\$60 per cemetery
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B. For licenses and registrations expiring on May 31, ~~2020~~ 2022, and before May 1, ~~2022~~ 2024, the renewal fees are as follows:

Renewal of cemetery company license	<del>\$300</del> \$400 per cemetery
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Renewal of sales personnel registration	<del>\$40</del> \$50 per cemetery
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VA.R. Doc. No. R22-7099; Filed March 3, 2022, 7:44 a.m.

~~Instructions for Oral and Maxillofacial Surgeon Registration of Practice (rev. 8/2020)~~

~~Instructions for Reinstatement of Oral and Maxillofacial Surgeon Registration of Practice (rev. 8/2020)~~

[Instructions for Oral and Maxillofacial Surgeon Registration of Practice \(rev. 2/2022\)](#)

[Instructions for Reinstatement of Oral and Maxillofacial Surgeon Registration of Practice \(rev. 2/2022\)](#)

Instructions for Registration of a Mobile Dental Facility or Portable Dental Operation (rev. 8/2020)

Instructions for Reactivation of Dental License (rev. 7/2021)

Instructions for Reinstatement of Dental License (rev. 7/2021)

~~Application Instructions for a Dental License (rev. 8/2021)~~

[Application Instructions for a Dental License \(rev. 2/2022\)](#)

FORMS (18VAC60-25)

~~Application Instructions for Dental Hygienists (rev. 8/2021)~~

[Application Instructions for Dental Hygienists \(rev. 2/2022\)](#)

Instructions for Registration for Dental Hygiene Volunteer Practice (rev. 7/2021)

Instructions for Reactivation of Dental Hygienist License (rev. 7/2021)

Instructions for Reinstatement of Dental Hygiene License (rev. 7/2021)

Instructions for Restricted Volunteer Dental Hygiene License (rev. 7/2021)

Instructions for a Faculty License to Teach Dental Hygiene (rev. 7/2021)

Instructions for a Temporary Dental Hygiene Permit (rev. 7/2021)

Continuing Education (CE) Credit Form for Volunteer Practice (rev. 5/2019)

FORMS (18VAC60-30)

~~Instructions for Registration of Dental Assistant II (rev. 7/2021)~~

[Instructions for Registration of Dental Assistant II \(rev. 2/2022\)](#)

Instructions for Reactivation of Dental Assistant II Registration (rev. 7/2021)

Instructions for Reinstatement of Dental Assistant II Registration (rev. 7/2021)

VA.R. Doc. No. R22-7110; Filed March 1, 2022, 4:21 p.m.



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# GUIDANCE DOCUMENTS

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## PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

**STATE AIR POLLUTION CONTROL BOARD**  
**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**STATE WATER CONTROL BOARD**  
**VIRGINIA WASTE MANAGEMENT BOARD**

Title of Document: [Transportation Incident Management Annex - Interim Plan - Pollution Response and Emergency Program Guidance Document, 2021-01.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: April 28, 2022.

Agency Contact: John Giese, Manager, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 698-4827, or email [john.giese@deq.virginia.gov](mailto:john.giese@deq.virginia.gov).

**ALCOHOLIC BEVERAGE CONTROL AUTHORITY**

Title of Document: [Circular Letter 22-01- Definitions for the words "designer" and "vintage" as they are used within the context of 3VAC5-70-230.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: May 5, 2022.

Agency Contact: LaTonya D. Hucks-Watkins, Senior Legal Counsel, Alcoholic Beverage Control Authority, 7450 Freight Way, Mechanicsville, VA 23116, telephone (804) 213-4698.

**BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY**

Title of Document: [Guidance for the Use and Supervision of Speech-Language Pathology Assistants.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: April 28, 2022.

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

**COMMON INTEREST COMMUNITY BOARD**

Title of Document: [Procedure for Consideration of Claims for Recovery from the Common Interest Community Management Recovery Fund.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: April 28, 2022.

Agency Contact: Joseph C. Haughwout, Jr., Administrator, Common Interest Community Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8510.

**SAFETY AND HEALTH CODES BOARD**

Title of Document: [Guidance for Employers to Mitigate the Risk of COVID-19 to Workers.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: April 28, 2022.

Agency Contact: Princy Doss, Director of Policy, Planning and Public Information, Department of Labor and Industry, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 786-4300, or email [princy.doss@doli.virginia.gov](mailto:princy.doss@doli.virginia.gov).

**BOARD OF VETERINARY MEDICINE**

Titles of Documents: [Disposition of Routine Inspection Violations.](#)

[Frequently Asked Questions - Prescription Monitoring Program.](#)

Public Comment Deadline: April 27, 2022.

Effective Date: April 28, 2022.

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

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# GENERAL NOTICES

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## STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

### Decision on Variances to the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115)

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing a decision on applications for variances to the Human Rights Regulations submitted to the State Human Rights Committee (SHRC). The purpose of the regulation is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application references the specific part of the Human Rights Regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application also describes time limits and other conditions for duration and the circumstances that will end the applicability of the variance. After considering all available information including comments, the SHRC intends to submit a written decision deferring, disapproving, modifying, or approving each variance application. All variances shall be approved for a specific time period. The decisions and reasons for variances are described in this notice.

Purpose of notice: After considering all available information, at its meeting June 22, 2021, the SHRC voted to approve the applications for variances to the Human Rights Regulations.

Variance to procedures for 12VAC35-115-150, General provisions; 12VAC35-115-175, Human rights complaint process; 12VAC35-115-180, Local Human Rights Committee hearing and review procedures; 12VAC35-115-190, Special procedures for emergency hearings by the LHRC; 12VAC35-115-200, Special procedures for LHRC reviews involving consent and authorization; and 12VAC35-115-210, State Human Rights Committee appeals procedures.

Explanation: Prior to 2010, the Virginia Center for Behavioral Rehabilitation (VCBR) followed the complaint process outlined in the Human Rights Regulations. As the census of the facility grew, the volume of complaints from residents overburdened the LHRC and became a treatment distraction for residents. The modified resident complaint process provides a similar level of review to the listed regulations. This modified complaint process allows for a review of complaints

at a "Formal" and "Director" level within the facility. The "Complaints Coordinator" of the facility meets with the resident at the Formal level in an attempt to resolve the issue at hand. At the Director level, the facility director or the director's designee reviews the complaint and attempts to resolve the issue at hand. If the resident is not satisfied with the determination or actions by the facility, the resident may appeal the decision to the VCBR Complaints Appeal Committee. This appeal committee is comprised of two members of the SHRC and the Director of the DBHDS Office of Human Rights. Of note, having the appeal committee ensures that there is still a process in place for a final review by individuals not affiliated with the facility.

This variance was approved for a three-year period with a modification to the request that if neither the chair nor the vice-chair of the SHRC are individuals receiving services, then a member of the SHRC who is an individual receiving services shall be appointed to the appeal committee.

Variance to procedures for 12VAC35-115-100, Restrictions on freedoms of everyday life: 12VAC35-115-100 B 5 - LHRC Review of imposed restrictions that last longer than seven days or are imposed three or more times during a 30-day period.

Explanation: This variance permits VCBR to place a resident on restriction, under this subsection or under 12VAC35-115-50, which lasts longer than seven days or is imposed three or more times in a 30-day time period without the approval of a local human rights committee (LHRC). Sexually violent predators may engage in behaviors that require an immediate restriction to ensure safety. It is necessary to implement restrictions in a timely manner so that the safety of residents and the general public is maintained. Prior review of a restriction by a LHRC may delay the implementation or continuation of a necessary restriction, increasing risk. Sexually violent predators may plan dangerous actions to circumvent established timeframes for review (e.g., seven or 30 days). Longer and more frequent restrictions, as determined by the individual's treatment team, may be required to assure the safety of residents, staff, and the general public. An individual may utilize the facility complaint process to request review of an imposed restriction.

Procedures for ensuring resident freedoms of everyday life within VCBR and procedures for implementing restrictions on those freedoms shall be outlined in Facility Instruction No. 201, Restrictions on Freedoms of Everyday Life.

This variance was not approved.

Variance to procedures for 12VAC35-115-50 C 3 a - reasonable privacy and private storage space.

Explanation: While VCBR is substantially able to meet the requirements of this section, the facility does "double-bunk" individuals in rooms that are approximately 85 square feet. The

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## General Notices

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facility provides private (lockable) storages spaces to residents in their rooms.

This variance was approved for a three-year period.

**Contact Information:** Taneika Goldman, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3988, FAX (833) 734-1241, or email [taneika.goldman@dbhds.virginia.gov](mailto:taneika.goldman@dbhds.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### **Bartonsville Energy Facility II LLC Notice of Intent for Small Renewable Energy Project (Solar) - Frederick County**

Bartonsville Energy Facility II LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Frederick County. Bartonsville Energy Facility II LLC will be located on approximately 640 acres of privately owned land to the west of Stephens City, Virginia, south of Marlboro Road, and adjacent to the project's currently permitted site. Latitude and longitude coordinates are as follows: 39.081353, -78.240525. The expansion facilities will have a maximum capacity of 50 megawatts alternating current and will consist of ground-mounted solar photovoltaic modules installed on single-axis tracking structures and associated inverters. As so explained, the project will have a total maximum nameplate capacity of 130 megawatts alternating current.

**Contact Information:** Mary Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-2665, FAX (804) 698-4510.

#### **Public Hearing and Public Comment Period - Proposed Runway Realignment and Extension in Middlesex County**

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on the state's response to the environmental aspects of a proposed runway realignment and extension in Middlesex County, Virginia.

Public comment period: March 17, 2022, to April 8, 2022.

Type of response: DEQ is conducting an environmental review of a proposed runway realignment and extension as a component of the airport's License Modification Application submitted to the Virginia Department of Aviation (DOAV).

Project description: The Middlesex County Board of Supervisors, owner and operator of the Hummel Field Airport (W75) requests the DOAV amend the licensed dimensions of the current Runway 1-19 from 2,167 feet long and 45 feet wide

to 3,220 feet long and 50 feet wide. Hummel Field Airport is comprised of approximately 72 acres of land and includes several aircraft hangars and a single asphalt runway, Runway 1-19, which is aligned roughly north-south. The airport is bounded by Greys Point Road to the south and east and Plainview Road to the west. The purpose of the project is to improve airport safety by constructing a runway that is fully compliant with DOAV's current design criteria and will realign the runway to provide a configuration that does not require aircraft to take off and land over existing residences north of the airport. The proposed action (Alternative 1B) includes the realignment of the runway using the DOAV minimum requirements for licensing. The proposed action includes a 1,053-foot extension and realignment of the existing runway. The proposed action would realign the runway approximately 3.9 degrees northeast, providing a new approach from the north that is generally centered over the water. The new runway, still designated as Runway 1-19, would add turnarounds at each end. Based on a combination of Federal Aviation Administration and DOAV design guidelines, the proposed action would provide a realigned runway that is 3,220 feet long and 50 feet wide. Additional activity associated with the runway realignment includes the demolition of approximately 12,146 square yards of asphalt from existing Runway 1-19, the acquisition of approximately 9.72 acres of property, construction of stormwater controls, and installation and temporary use of staging areas, haul roads, and sediment and erosion controls. The proposed action will allow the airport to meet the criteria for licensing set by the DOAV, improve safety, and support regional growth and development.

How a decision is made: The DEQ Office of Environmental Impact Review coordinates the Commonwealth's response to the environmental information submitted for runway extensions. DEQ distributes the documents to appropriate state agencies, planning districts, and localities for their review and comment. Upon consideration of all comments, DEQ prepares a single state response to DOAV, which must consider the environmental review conducted by DEQ prior to approving the airport's License Modification Application.

How to comment: DEQ accepts comments from the public by hand-delivery, email, or postal mail. The public is invited to comment in any of three ways:

1. Oral comments will be recorded by a certified court reporter during a joint public hearing.
2. Written comments may be submitted anytime during the hearing.
3. Written comments may be mailed, emailed, or hand delivered to DEQ to the staff person listed at the end of this notice.

All written comments will be forwarded to the DOAV. All comments must include the name, address, and telephone number of the person commenting and be received by DEQ

within the comment period. Before including the commenter's address, phone number, email address, or other personal identifying information in the comment, be advised that the entire comment, including personal identifying information may be made publicly available at any time. While commenters can ask the department in the comment to withhold from public review personal identifying information, the department cannot guarantee its ability to do so. A copy of the environmental information is available at the following locations:

- Middlesex County Public Library, 150 Grace Avenue, Urbanna, VA 23175
- Hummel Field Airport, 310 Plainview Road, Topping, VA 23169
- Middlesex County Administration, 877 General Puller Highway, Saluda, VA 23149
- Department of Environmental Quality, 1111 East Main Street, 14th Floor, Richmond, VA 23219 (upon request)

A copy of the information is also available online at <https://www.co.middlesex.va.us/217/Public-Hearing-and-Other-Notices>.

**Public hearing:** A joint public hearing will be hosted by DEQ in conjunction with the DOAV for the purposes of compliance with state licensing requirements (§ 5.1-7 of the Code of Virginia). Anyone desiring to be heard in support of or in opposition to this proposed action may attend and have their comments considered by DEQ and DOAV. An informational open house will be held a half hour prior to the joint public hearing. The joint public hearing and informational open house will be held as follows:

Date: March 30, 2022

Time: Informational open house 5:30 p.m. to 6 p.m.

Public hearing will begin at 6 p.m.

Location: Board Meeting Room, Middlesex County Historic Courthouse, 865 General Puller Highway, Saluda, VA

Contact for public comments, document requests, and additional information is provided as follows:

Contact Information: Janine Howard, Department of Environmental Quality, Central Office, Office of Environmental Impact Review 1111 East Main Street, 14th Floor, Richmond, VA 23218, telephone (804) 659-1916 or email [janine.howard@deq.virginia.gov](mailto:janine.howard@deq.virginia.gov).

## STATE BOARD OF HEALTH

### American Rescue Plan Act Funding Announcement

The Virginia Department of Health (VDH) is pleased to announce \$100 million of available American Rescue Plan Act

(ARPA) funding to assist public drinking water systems across the Commonwealth of Virginia.

VDH developed a list of potential waterworks construction projects based on agency knowledge of needs from inspections, sanitary surveys, enforcement and compliance activity, and technical assistance across the Commonwealth. Project eligibility for ARPA projects are the same as for Drinking Water State Revolving Fund (DWSRF) projects. For more information on DWSRF eligibility, please review the [DWSRF Eligibility Handbook | US EPA](#).

To date, VDH has already approved and awarded 35 qualifying applications totaling \$62,352,700. Projects identified for funding include waterworks that (i) serve fewer than 10,000 persons; (ii) are disadvantaged, meaning that the annual water bill exceeds 1.0% of the median household income level for that community; (iii) are abandoned, meaning that the owner of the waterworks has effectively stopped providing services; or (iv) have acute or chronic violations of the Waterworks Regulations (12VAC5-590). VDH uses the project area that will benefit from the project when determining whether a waterworks qualifies as disadvantaged. VDH has prioritized projects to mitigate public health or other compliance concerns.

VDH is now accepting applications for the remaining ARPA funding. The application to apply for ARPA funding and other details about the previously awarded projects can be reviewed and downloaded at [Drinking Water American Rescue Plan Act \(ARPA\) - Drinking Water](#). VDH is also accepting comments on the ARPA projects previously awarded. Please send applications, comments, questions, and concerns on projects awarded to date to [vdh\\_drinkingwater@vdh.virginia.gov](mailto:vdh_drinkingwater@vdh.virginia.gov).

ARPA funding is only available to waterworks that have a population less than 10,000 persons or that are disadvantaged, abandoned, or have acute or chronic violations of the Waterworks Regulations, as described in this notice. Find additional information and help answer questions at:

[Coronavirus State and Local Fiscal Recovery Funds | U.S. Department of the Treasury](#)

<https://home.treasury.gov/news/press-releases/jy0550>

<https://www.nlc.org/covid-19-pandemic-response/american-rescue-plan-act/>

This solicitation is running concurrently with the annual Drinking Water State Revolving Fund (DWSRF) and Bipartisan Infrastructure Law (BIL) solicitation. Information about BIL and DWSRF funding and applications can be found at <https://www.townhall.virginia.gov/L/ViewNotice.cfm?gnid=2367>. Applications for ARPA funding, DWSRF funding, and Bipartisan Infrastructure Law funding applications are all due by May 6, 2022.

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Contact Information: Joseph Hilbert, Deputy Commissioner, Government and Regulatory Affairs, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7001, FAX (804) 864-7022.

### STATE WATER CONTROL BOARD

#### Proposed Enforcement Notice for A & K Development Corporation

An enforcement action has been proposed for A & K Development Corporation for violations at the Trinity Senior Village construction site located at 3065 Germanna Highway, Locust Grove, Virginia. The State Water Control Board proposes to issue a special order by consent to A & K Development Corporation to address noncompliance with the State Water Control Law and regulations. A description of the proposed action is available at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The Department of Environmental Quality will accept public comment from March 14, 2022, to April 13, 2022.

Contact Information: Carla Pool, Enforcement Adjudication Manager, Department of Environmental Quality, 1111 East Main Street, Richmond, VA 23219, telephone (804) 664-3666, or email [carla.pool@deq.virginia.gov](mailto:carla.pool@deq.virginia.gov).

#### Proposed Enforcement Action for Brambleton Group LLC

An enforcement action has been proposed for Brambleton Group LLC for violations of the State Water Control Law and regulations at the Brambleton Phase II, Sections 32, 34, and Active Adult Facility located in Loudoun County, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the Brambleton Phase II, Sections 32, 34, and Active Adult Facility. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders](http://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders). The staff contact will accept comments by email or postal mail from March 29, 2022, through April 27, 2022.

Contact Information: Mark Miller, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email [mark.miller@deq.virginia.gov](mailto:mark.miller@deq.virginia.gov).

#### Proposed Enforcement Action for C&T Durham Trucking Company

An enforcement action has been proposed for C&T Durham Trucking Company for violations at Cherry Grove Dairy Farm in Rockbridge County, Virginia and C&T Durham Trucking Company Facility in the City of Harrisonburg, Virginia. The State Water Control Board proposes to issue a consent order

with penalty to C&T Durham Trucking Company to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact will accept comments by email, fax or postal mail from March 28, 2022, to April 29, 2022.

Contact Information: Eric Millard, Enforcement Specialist, Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, FAX (804) 698-4178, or email [eric.millard@deq.virginia.gov](mailto:eric.millard@deq.virginia.gov).

#### Proposed Enforcement Action for Foss Recycling of Virginia LLC

An enforcement action has been proposed for the Foss Recycling of Virginia LLC for violations of the State Water Control Law at Foss Recycling, Chesapeake, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Comments will be accepted from March 28, 2022, to April 27, 2022.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 647-8060, or email [russell.deppe@deq.virginia.gov](mailto:russell.deppe@deq.virginia.gov).

#### Proposed Enforcement Action for Gill Bros LLC

An enforcement action has been proposed for Gill Bros LLC for violations at GB 2 Facility in Augusta County, Virginia. The State Water Control Board proposes to issue a consent order with penalty and injunctive relief to Gill Bros LLC to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact will accept comments by email, fax, or postal mail from March 28, 2022, to April 26, 2022.

Contact Information: Celeste Horton, Enforcement Specialist, Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, FAX (804) 698-4178, or email [celeste.horton@deq.virginia.gov](mailto:celeste.horton@deq.virginia.gov).

#### Proposed Enforcement Action for HITT Contracting Inc.

An enforcement action has been proposed for HITT Contracting Inc. for violations of the State Water Control Law and regulations at the LVL Data Center located on Prison Road in Mecklenburg County, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the LVL Data Center. A description of the

proposed action is available at the Department of Environmental Quality office listed or online at <https://www.deq.virginia.gov/permits-regulations/public-notices/enforcement-orders>. The staff contact will accept comments by email or postal mail from March 28, 2022, through April 28, 2022.

**Contact Information:** Matt Richardson, Department of Environmental Quality, Piedmont Regional Office , 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 659-2696, or email [matthew.richardson@deq.virginia.gov](mailto:matthew.richardson@deq.virginia.gov).

### **Proposed Enforcement Action for Waste Management of Virginia Inc.**

The State Water Control Board proposes to issue a consent special order to Waste Management of Virginia Inc. for alleged violations of the State Water Control Law at the Charles City County Landfill located at 8000 Chambers Road, Charles City County, Virginia. A description of the proposed action is available at the Department of Environmental Quality office listed or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). The staff contact will accept comments by email or postal mail from March 28, 2022, to April 28, 2022.

**Contact Information:** Frank Lupini, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, or email [frank.lupini@deq.virginia.gov](mailto:frank.lupini@deq.virginia.gov).

## **VIRGINIA CODE COMMISSION**

### **Notice to State Agencies**

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

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

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

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

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