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The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2005 VAC Supplement includes final regulations published through *Virginia Register* Volume 21, Issue 24, dated August 8, 2005). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 5-20-10 through 2 VAC 5-20-40	Amended	22:11 VA.R. 1761-1764	3/10/06
2 VAC 5-20-30	Erratum	22:13 VA.R. 2153	--
2 VAC 5-390-180	Amended	22:14 VA.R. 2201	2/27/06
Title 4. Conservation and Natural Resources			
4 VAC 5-36-50	Erratum	22:14 VA.R. 2216	--
4 VAC 15-20-130	Amended	22:19 VA.R. 2599	7/1/06
4 VAC 15-20-160	Amended	22:19 VA.R. 2600	7/1/06
4 VAC 15-40-30	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-200	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-40-285	Added	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-71	Amended	22:19 VA.R. 2601	7/1/06
4 VAC 15-50-110	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-50-120	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-10	Amended	22:19 VA.R. 2602	7/1/06
4 VAC 15-70-60	Added	22:19 VA.R. 2602	7/1/06
4 VAC 15-90-22	Added	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-70	Amended	22:19 VA.R. 2603	7/1/06
4 VAC 15-90-80	Amended	22:19 VA.R. 2604	7/1/06
4 VAC 15-90-90	Amended	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-91	Added	22:19 VA.R. 2605	7/1/06
4 VAC 15-90-100 through 4 VAC 15-90-121	Repealed	22:19 VA.R. 2608-2609	7/1/06
4 VAC 15-90-141	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-160	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-170	Repealed	22:19 VA.R. 2609	7/1/06
4 VAC 15-90-190 through 4 VAC 15-90-220	Repealed	22:19 VA.R. 2609-2610	7/1/06
4 VAC 15-90-291	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-90-292	Added	22:19 VA.R. 2610	7/1/06
4 VAC 15-110-20	Amended	22:19 VA.R. 2613	7/1/06
4 VAC 15-120-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-170-21	Added	22:19 VA.R. 2614	7/1/06
4 VAC 15-190-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-200-10	Amended	22:19 VA.R. 2614	7/1/06
4 VAC 15-210-10 and 4 VAC 15-210-20	Amended	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-21	Added	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-40	Repealed	22:19 VA.R. 2615	7/1/06
4 VAC 15-230-61	Added	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-10	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-20	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-240-31	Amended	22:19 VA.R. 2616	7/1/06
4 VAC 15-320-25	Amended	22:19 VA.R. 2617	7/1/06
4 VAC 15-320-100	Amended	22:16 VA.R. 2370	5/17/06
4 VAC 15-330-50	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-140	Amended	22:19 VA.R. 2623	7/1/06
4 VAC 15-330-160	Amended	22:19 VA.R. 2623	7/1/06

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-340-10	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-30	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-340-40	Amended	22:19 VA.R. 2624	7/1/06
4 VAC 15-360-10	Amended	22:19 VA.R. 2625	7/1/06
4 VAC 15-360-30	Amended	22:19 VA.R. 2626	7/1/06
4 VAC 15-360-70	Added	22:19 VA.R. 2626	7/1/06
4 VAC 20-20-20	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50	Amended	22:10 VA.R. 1551	12/22/05
4 VAC 20-20-50 emer	Amended	22:10 VA.R. 1682	12/28/05-1/27/06
4 VAC 20-20-50	Amended	22:12 VA.R. 2033	1/27/06
4 VAC 20-150-10 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-150-70 emer	Amended	22:20 VA.R. 2716	5/29/06-6/28/06
4 VAC 20-252-55	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-252-150	Amended	22:15 VA.R. 2280	3/2/06
4 VAC 20-450-30	Amended	22:20 VA.R. 2704	5/26/06
4 VAC 20-530-10	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-20 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-20	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-23	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-26	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-29	Repealed	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30	Amended	22:12 VA.R. 2034	1/27/06
4 VAC 20-530-30 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-30	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-31	Added	22:12 VA.R. 2035	1/27/06
4 VAC 20-530-31 emer	Amended	22:14 VA.R. 2208	3/2/06-3/31/06
4 VAC 20-530-31	Amended	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-32 emer	Added	22:14 VA.R. 2209	3/2/06-3/31/06
4 VAC 20-530-32	Added	22:16 VA.R. 2371	3/31/06
4 VAC 20-530-35	Repealed	22:12 VA.R. 2035	1/27/06
4 VAC 20-560-20 emer	Amended	22:16 VA.R. 2387	3/30/06-4/28/06
4 VAC 20-560-20	Amended	22:19 VA.R. 2626	4/28/06
4 VAC 20-560-40 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-40	Amended	22:19 VA.R. 2627	4/28/06
4 VAC 20-560-50 emer	Amended	22:16 VA.R. 2388	3/30/06-4/28/06
4 VAC 20-560-50	Amended	22:19 VA.R. 2628	4/28/06
4 VAC 20-720-40	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-40 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-50	Amended	22:10 VA.R. 1552	1/1/06
4 VAC 20-720-50 emer	Amended	22:12 VA.R. 2043	2/1/06-2/28/06
4 VAC 20-720-70	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-720-75	Amended	22:10 VA.R. 1553	1/1/06
4 VAC 20-900-25	Amended	22:10 VA.R. 1553	12/22/05
4 VAC 20-900-30	Amended	22:10 VA.R. 1554	12/22/05
4 VAC 20-910-45	Amended	22:10 VA.R. 1555	12/30/05
4 VAC 20-950-47 emer	Amended	22:10 VA.R. 1682	1/1/06-1/30/06
4 VAC 20-950-47	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-950-48 emer	Amended	22:10 VA.R. 1683	1/1/06-1/30/06
4 VAC 20-950-48	Amended	22:12 VA.R. 2035	2/1/06
4 VAC 20-1040-20	Amended	22:10 VA.R. 1555	1/1/06
4 VAC 20-1100-10 through 4 VAC 20-1100-30	Added	22:19 VA.R. 2628	7/1/06
4 VAC 25-31 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-35 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-40 (Forms)	Amended	22:16 VA.R. 2389	--
4 VAC 25-130 (Forms)	Amended	22:16 VA.R. 2390	--

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 6. Criminal Justice and Corrections			
6 VAC 20-120-80	Amended	22:20 VA.R. 2704	7/12/06
6 VAC 20-190-10 through 6 VAC 20-190-200	Repealed	22:10 VA.R. 1556-1559	2/22/06
6 VAC 20-210-10 through 6 VAC 20-210-110	Repealed	22:10 VA.R. 1561-1562	2/22/06
6 VAC 20-220-20 through 6 VAC 20-220-80	Repealed	22:10 VA.R. 1559-1560	2/22/06
6 VAC 20-240-10 through 6 VAC 20-240-120	Added	22:11 VA.R. 1764-1768	3/8/06
6 VAC 20-260-10 through 6 VAC 20-260-360 emer	Added	22:12 VA.R. 2044-2053	2/20/06-2/19/07
6 VAC 40-20-10 through 6 VAC 40-20-200	Added	22:10 VA.R. 1556-1559	2/22/06
6 VAC 40-20 (Forms)	Added	22:16 VA.R. 2392	--
6 VAC 40-30-10 through 6 VAC 40-30-80	Added	22:10 VA.R. 1559-1560	2/22/06
6 VAC 40-40-10 through 6 VAC 40-40-110	Added	22:10 VA.R. 1561-1562	2/22/06
Title 9. Environment			
9 VAC 5-50-250	Amended	22:10 VA.R. 1563	*
9 VAC 5-50-270	Amended	22:10 VA.R. 1563	*
9 VAC 5-50-280	Amended	22:10 VA.R. 1564	*
9 VAC 5-80-1100	Amended	22:10 VA.R. 1564	*
9 VAC 5-80-1110	Amended	22:10 VA.R. 1565	*
9 VAC 5-80-1310	Repealed	22:10 VA.R. 1569	*
9 VAC 5-80-1605	Amended	22:10 VA.R. 1571	*
9 VAC 5-80-1615	Amended	22:10 VA.R. 1571	*
9 VAC 5-80-1625	Amended	22:10 VA.R. 1583	*
9 VAC 5-80-1635	Added	22:10 VA.R. 1583	*
9 VAC 5-80-1645	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1655	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1665	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1675	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1685	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1695	Added	22:10 VA.R. 1584	*
9 VAC 5-80-1700	Repealed	22:10 VA.R. 1585	*
9 VAC 5-80-1705	Added	22:10 VA.R. 1585	*
9 VAC 5-80-1710	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1715	Added	22:10 VA.R. 1586	*
9 VAC 5-80-1720	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1725	Added	22:10 VA.R. 1586	*
9 VAC 5-80-1730	Repealed	22:10 VA.R. 1586	*
9 VAC 5-80-1735	Amended	22:10 VA.R. 1586	*
9 VAC 5-80-1740	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1745	Added	22:10 VA.R. 1587	*
9 VAC 5-80-1750	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1755	Added	22:10 VA.R. 1587	*
9 VAC 5-80-1760	Repealed	22:10 VA.R. 1587	*
9 VAC 5-80-1765	Amended	22:10 VA.R. 1587	*
9 VAC 5-80-1770	Repealed	22:10 VA.R. 1588	*
9 VAC 5-80-1775	Added	22:10 VA.R. 1588	*
9 VAC 5-80-1780	Repealed	22:10 VA.R. 1590	*
9 VAC 5-80-1785	Amended	22:10 VA.R. 1590	*
9 VAC 5-80-1790	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1795	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1800	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1805	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1810	Repealed	22:10 VA.R. 1591	*
9 VAC 5-80-1815	Added	22:10 VA.R. 1591	*
9 VAC 5-80-1820	Repealed	22:10 VA.R. 1591	*

* Notice of Suspension of Regulatory Process and Reopening of Public Comment Period (22:13 VA.R. 2131-2132)

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-80-1825	Amended	22:10 VA.R. 1591	*
9 VAC 5-80-1830	Repealed	22:10 VA.R. 1592	*
9 VAC 5-80-1835	Added	22:10 VA.R. 1592	*
9 VAC 5-80-1845	Added	22:10 VA.R. 1593	*
9 VAC 5-80-1855	Added	22:10 VA.R. 1596	*
9 VAC 5-80-1840	Repealed	22:10 VA.R. 1593	*
9 VAC 5-80-1850	Repealed	22:10 VA.R. 1596	*
9 VAC 5-80-1860	Repealed	22:10 VA.R. 1597	*
9 VAC 5-80-1865	Added	22:10 VA.R. 1597	*
9 VAC 5-80-1870 through 9 VAC 5-80-1920	Repealed	22:10 VA.R. 1602	*
9 VAC 5-80-1925	Added	22:10 VA.R. 1602	*
9 VAC 5-80-1930	Repealed	22:10 VA.R. 1603	*
9 VAC 5-80-1935	Added	22:10 VA.R. 1603	*
9 VAC 5-80-1940	Repealed	22:10 VA.R. 1603	*
9 VAC 5-80-1945	Added	22:10 VA.R. 1603	*
9 VAC 5-80-1950	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1955	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1960	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1965	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1970	Repealed	22:10 VA.R. 1604	*
9 VAC 5-80-1975	Added	22:10 VA.R. 1604	*
9 VAC 5-80-1985	Added	22:10 VA.R. 1605	*
9 VAC 5-80-1995	Added	22:10 VA.R. 1605	*
9 VAC 5-80-2000 through 9 VAC 5-80-2020	Amended	22:10 VA.R. 1605-1617	*
9 VAC 5-80-2040 through 9 VAC 5-80-2070	Amended	22:10 VA.R. 1617-1620	*
9 VAC 5-80-2090	Amended	22:10 VA.R. 1620	*
9 VAC 5-80-2091	Added	22:10 VA.R. 1620	*
9 VAC 5-80-2110 through 9 VAC 5-80-2140	Amended	22:10 VA.R. 1621-1624	*
9 VAC 5-80-2141 through 9 VAC 5-80-2144	Added	22:10 VA.R. 1624-1634	*
9 VAC 5-80-2180	Amended	22:10 VA.R. 1634	*
9 VAC 5-80-2200 through 9 VAC 5-80-2240	Amended	22:10 VA.R. 1635-1637	*
9 VAC 25-194-40	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-194-70	Amended	22:16 VA.R. 2372	5/17/06
9 VAC 25-260-310	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-410	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-260-530	Amended	22:11 VA.R. 1768	1/12/06
9 VAC 25-660-10	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-60	Erratum	22:12 VA.R. 2063	--
9 VAC 25-660-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-10	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-670-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-70	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-80	Erratum	22:12 VA.R. 2063	--
9 VAC 25-680-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-30	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-50	Erratum	22:12 VA.R. 2063	--
9 VAC 25-690-100	Erratum	22:12 VA.R. 2063	--
9 VAC 25-720-60	Erratum	22:12 VA.R. 2064	--
9 VAC 25-720-110	Amended	22:16 VA.R. 2378	5/17/06
9 VAC 25-720-120	Erratum	22:12 VA.R. 2064	--
Title 10. Finance and Financial Institutions			
10 VAC 5-200-80	Amended	22:11 VA.R. 1769	3/1/06
10 VAC 5-160-10	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-20	Amended	22:18 VA.R. 2514	9/1/06
10 VAC 5-160-30	Amended	22:18 VA.R. 2515	9/1/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
10 VAC 5-160-60	Added	22:18 VA.R. 2516	9/1/06
Title 11. Gaming			
11 VAC 10-20-240	Amended	22:11 VA.R. 1771	3/8/06
11 VAC 10-20-260	Amended	22:15 VA.R. 2281	3/7/06
11 VAC 10-70-20	Amended	22:20 VA.R 2705	5/19/06-9/4/06
11 VAC 10-70-30	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-40	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-50	Repealed	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-60	Amended	22:20 VA.R 2706	5/19/06-9/4/06
11 VAC 10-70-70	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-80	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-90	Amended	22:20 VA.R 2707	5/19/06-9/4/06
11 VAC 10-70-170	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-10	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-30	Amended	22:20 VA.R 2708	5/19/06-9/4/06
11 VAC 10-90-50	Amended	22:20 VA.R 2708	5/19/06-9/4/06
Title 12. Health			
12 VAC 5-590-370	Amended	22:15 VA.R. 2282	5/3/06
12 VAC 5-590-400	Amended	22:15 VA.R. 2306	5/3/06
12 VAC 5-590-410	Amended	22:15 VA.R. 2307	5/3/06
12 VAC 5-590-440	Amended	22:15 VA.R. 2310	5/3/06
12 VAC 5-590-540, Appendices B and N	Amended	22:15 VA.R. 2313	5/3/06
12 VAC 30-50-10	Amended	22:16 VA.R. 2382	7/3/06
12 VAC 30-50-120	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-140	Amended	22:16 VA.R. 2383	7/3/06
12 VAC 30-50-150	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 30-80-40	Amended	22:14 VA.R. 2202	5/1/06
12 VAC 30-80-190	Amended	22:14 VA.R. 2204	5/1/06
12 VAC 30-80-190 emer	Amended	22:14 VA.R. 2209	5/1/06-4/30/07
12 VAC 30-120-10 through 12 VAC 30-120-60	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-211	Amended	22:19 VA.R. 2629	6/28/06
12 VAC 30-120-213	Amended	22:19 VA.R. 2632	6/28/06
12 VAC 30-120-215	Amended	22:19 VA.R. 2633	6/28/06
12 VAC 30-120-217	Amended	22:19 VA.R. 2637	6/28/06
12 VAC 30-120-219	Amended	22:19 VA.R. 2639	6/28/06
12 VAC 30-120-221	Amended	22:19 VA.R. 2640	6/28/06
12 VAC 30-120-223	Amended	22:19 VA.R. 2641	6/28/06
12 VAC 30-120-225	Amended	22:19 VA.R. 2643	6/28/06
12 VAC 30-120-227	Amended	22:19 VA.R. 2647	6/28/06
12 VAC 30-120-229	Amended	22:19 VA.R. 2648	6/28/06
12 VAC 30-120-231	Amended	22:19 VA.R. 2649	6/28/06
12 VAC 30-120-233	Amended	22:19 VA.R. 2650	6/28/06
12 VAC 30-120-237	Amended	22:19 VA.R. 2653	6/28/06
12 VAC 30-120-241	Amended	22:19 VA.R. 2654	6/28/06
12 VAC 30-120-243	Repealed	22:19 VA.R. 2656	6/28/06
12 VAC 30-120-245	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-247	Amended	22:19 VA.R. 2658	6/28/06
12 VAC 30-120-249	Amended	22:19 VA.R. 2660	6/28/06
12 VAC 30-120-490 through 12 VAC 30-120-550	Repealed	22:10 VA.R. 1638	2/22/06
12 VAC 30-120-900 through 12 VAC 30-120-980	Added	22:10 VA.R. 1638-1661	2/22/06
12 VAC 30-141-500	Amended	22:16 VA.R. 2385	7/3/06
12 VAC 35-45-10	Amended	22:10 VA.R. 1684	12/30/05-12/29/06
12 VAC 35-45-70 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-80 emer	Amended	22:10 VA.R. 1685	12/30/05-12/29/06
12 VAC 35-45-210 emer	Added	22:10 VA.R. 1686	12/30/05-12/29/06
12 VAC 35-105-20 emer	Amended	22:10 VA.R. 1686	12/30/05-12/29/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 35-105-30 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-590 emer	Amended	22:10 VA.R. 1693	12/30/05-12/29/06
12 VAC 35-105-660 emer	Amended	22:10 VA.R. 1694	12/30/05-12/29/06
Title 13. Housing			
13 VAC 5-51-132	Amended	22:20 VA.R 2709	7/12/06
13 VAC 5-63-40	Amended	22:20 VA.R 2710	7/12/06
13 VAC 5-63-480	Amended	22:20 VA.R 2712	7/12/06
13 VAC 6-20-10	Amended	22:10 VA.R. 1679	4/12/06
13 VAC 6-20-80	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-120	Amended	22:10 VA.R. 1680	4/12/06
13 VAC 6-20-350	Amended	22:10 VA.R. 1680	4/12/06
Title 16. Labor and Employment			
16 VAC 25-90-1910.6	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.106	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.142	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.178	Amended	22:18 VA.R. 2517	6/15/06
16 VAC 25-90-1910.243	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.254	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.265	Amended	22:18 VA.R. 2518	6/15/06
16 VAC 25-90-1910.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-90-1910.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-100-1915.1000	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-100-1915.1026	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-120-1917.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-130-1918.1	Amended	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926.55	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-175-1926.754 and Appendix B of Subpart R	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1002	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1003 and adding Appendix A to Subpart W	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-175-1926.1126	Added	22:18 VA.R. 2519	6/15/06
16 VAC 25-190-1928.51	Amended	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.52	Added	22:18 VA.R. 2520	6/15/06
16 VAC 25-190-1928.53 and Appendix B to Subpart C	Added	22:18 VA.R. 2520	6/15/06
Title 17. Libraries and Cultural Resources			
17 VAC 10-30-10 through 17 VAC 10-30-160	Added	22:13 VA.R. 2132-2140	4/5/06
Title 18. Professional and Occupational Licensing			
18 VAC 30-20-80	Amended	22:14 VA.R. 2205	4/19/06
18 VAC 60-20-30	Amended	22:15 VA.R. 2320	5/3/06
18 VAC 65-20-110	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 65-40-40	Amended	22:12 VA.R. 2036	3/22/06
18 VAC 85-10-10 through 18 VAC 85-10-110	Erratum	22:15 VA.R. 2324	--
18 VAC 85-20-400 emer	Added	22:10 VA.R. 1695	12/21/05-12/20/06
18 VAC 85-20-410 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-20-420 emer	Added	22:10 VA.R. 1696	12/21/05-12/20/06
18 VAC 85-130-10 through 18 VAC 85-130-170 emer	Added	22:10 VA.R. 1696-1700	12/21/05-12/20/06
18 VAC 90-20-30	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-25-80	Amended	22:12 VA.R. 2037	3/22/06
18 VAC 90-30-50	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-40-70	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 90-50-30	Amended	22:12 VA.R. 2038	3/22/06
18 VAC 95-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 105-20-5	Amended	22:20 VA.R 2714	7/12/06
18 VAC 105-20-10	Amended	22:20 VA.R 2714	7/12/06
18 VAC 105-20-15	Amended	22:20 VA.R 2714	7/12/06
18 VAC 105-20-16	Amended	22:20 VA.R 2715	7/12/06

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 105-20-20	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 110-20-20	Amended	22:15 VA.R. 2321	5/3/06
18 VAC 110-20-20	Erratum	22:16 VA.R. 2399	--
18 VAC 110-30-10	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-15	Amended	22:15 VA.R. 2322	5/3/06
18 VAC 110-30-15	Erratum	22:16 VA.R. 2399	--
18 VAC 110-30-20	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-30	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-35	Repealed	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-40	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-50	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-80	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-110	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-130	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-150	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-170 through 18 VAC 110-30-220	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-240	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-260	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 110-30-270	Amended	22:10 VA.R. 1662	2/22/06
18 VAC 112-20-130	Amended	22:13 VA.R. 2141	4/5/06
18 VAC 112-20-150	Amended	22:13 VA.R. 2142	4/5/06
18 VAC 115-20-20	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-20-106	Amended	22:12 VA.R. 2039	3/22/06
18 VAC 115-30-30	Amended	22:14 VA.R. 2206	4/19/06
18 VAC 115-40-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-50-96	Amended	22:12 VA.R. 2040	3/22/06
18 VAC 115-60-20	Amended	22:14 VA.R. 2207	4/19/06
18 VAC 115-60-116	Amended	22:12 VA.R. 2041	3/22/06
18 VAC 120-40-40	Amended	22:11 VA.R. 1779	4/23/06
18 VAC 120-40-50	Amended	22:11 VA.R. 1779	4/23/06
18 VAC 125-20-30	Amended	22:11 VA.R. 1772	3/8/06
18 VAC 125-30-20	Amended	22:11 VA.R. 1773	3/8/06
Title 19. Public Safety			
19 VAC 30-20-40	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-80	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-205	Added	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-220	Amended	22:10 VA.R. 1663	3/1/06
19 VAC 30-20-250	Amended	22:10 VA.R. 1663	3/1/06
Title 20. Public Utilities and Telecommunications			
20 VAC 5-313-10 through 20 VAC 5-313-40	Added	22:11 VA.R. 1775-1777	1/5/06
Title 22. Social Services			
22 VAC 40-141-20	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-30	Amended	22:10 VA.R. 1664	2/22/06
22 VAC 40-141-80 through 22 VAC 40-141-90	Amended	22:10 VA.R. 1664-1666	2/22/06
22 VAC 40-141-110 through 22 VAC 40-141-210	Amended	22:10 VA.R. 1666-1672	2/22/06
Title 24. Transportation and Motor Vehicles			
24 VAC 30-121-10 through 24 VAC 30-121-40	Added	22:10 VA.R. 1672-1676	2/22/06
24 VAC 30-400-10 through 24 VAC 30-400-40	Repealed	22:13 VA.R. 2142	2/14/06
24 VAC 30-401-10 through 24 VAC 30-401-40	Added	22:13 VA.R. 2142-2143	2/14/06

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled **State Plan Under Title XIX of the Social Security Act Medical Assistance Program**:

12 VAC 30-10. General Provisions.

12 VAC 30-20. Administration of Medical Assistance Services.

12 VAC 30-110. Eligibility and Appeals.

The purpose of this action is to revise the State Plan section on estate recovery by incorporating all applicable aspects of the State Medicaid Manual section on estate recovery. The amended regulation will (i) contain the definitions that are expressly required by the State Medicaid Manual to be in the State Plan that are not there currently, (ii) include guidelines for recovering from all applicable categories of estates, and (iii) closely follow the format of the State Medicaid Manual. It will also address areas that are in the State Medical Manual that are currently not in the State Plan. The State Medicaid Manual is provided by the federal Centers for Medicaid and Medicare Services to provide guidance to state medical assistance agencies on administering their respective Medicaid programs. The amended regulation will bring DMAS into compliance with the State Medicaid Manual.

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

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until June 28, 2006.

Contact: Kathy Colley, Project Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-3839, FAX (804) 786-1680 or e-mail kathy.colley@dmass.virginia.gov.

VA.R. Doc. No. R06-234; Filed May 10, 2006, 10:19 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**. The purpose of the proposed action is to address two regulatory issues that have been raised by the Credentials Committee in the process of considering applications for licensure - clinical training for an applicant who graduated from a nonapproved medical school and the current requirement that all three steps of the United States Medical Licensing Examination (USMLE) be taken within seven years.

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

Statutory Authority: § 54.1-2400 and Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1 of the Code of Virginia.

NOTE: CHANGE IN COMMENT DEADLINE

Public comments may be submitted until 5 p.m. on July 26, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-241; Filed May 24, 2006, 9:26 a.m. and May 30, 2006, 3:32 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled **18 VAC 85-40, Regulations Governing the Practice of Respiratory Care Practitioners**. The purpose of the proposed action is to clarify certain provisions of the regulation for ease of compliance and consistency with current practices. The board will consider rules for reactivation or reinstatement of inactive or lapsed licenses to provide requirements that will reasonably ensure competency for active practice.

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

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Notices of Intended Regulatory Action

NOTE: CHANGE IN COMMENT DEADLINE

Public comments may be submitted until 5 p.m. on July 26, 2006.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.virginia.gov.

VA.R. Doc. No. R06-242; Filed May 24, 2006, 9:26 a.m. and May 30, 2006, 3:32 p.m.

REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to consider amending regulations entitled **18 VAC 135-60, Common Interest Community Management Information Fund Regulations**. The purpose of the proposed action is to revise the annual filing fee for common interest community associations to be proportional to the size of the associations. The board determined as a result of the study conducted for HJR 686 (2005 Session) that further education was needed to make associations and those who are directing them better aware of their duties and responsibilities to their communities, which would help to alleviate potential problems and misunderstandings with financially compensated professional association managers. Because of the ever increasing number of communities that are controlled by Property Owners' Associations and Condominium Unit Owners' Associations, and the high volume of turnover in association and board membership, additional funds would be needed to fund any additional training and education. A restructuring of fees proportional to the size of the communities would provide the additional funding needed since this program is self-funding and receives no moneys from the Commonwealth's General Fund.

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

Statutory Authority: § 55-530 of the Code of Virginia.

Public comments may be submitted until June 30, 2006.

Contact: Thomas K. Perry, Property Registration Administrator, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8510, FAX (804) 367-2475 or e-mail propreg@dpor.virginia.gov.

VA.R. Doc. No. R06-230; Filed May 8, 2006, 11:17 a.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR THE BLIND AND VISION IMPAIRED

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department for the Blind and Vision Impaired intends to consider repealing **22 VAC 45-50, Regulations Governing Provisions of Services in Vocational Rehabilitation**, and promulgating regulations entitled **22 VAC 45-51, Regulations Governing Provisions of Services in Vocational Rehabilitation**. The purpose of the proposed action is to update the vocational rehabilitation regulations and provide clearer articulation of vocational rehabilitation regulations for citizens who are blind or vision impaired.

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

Statutory Authority: § 51.5-65 of the Code of Virginia.

Public comments may be submitted until July 27, 2006.

Contact: Susan D. Payne, Program Director, Vocational Rehabilitation, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3184, FAX (804) 371-3351 or e-mail susan.payne@dbvi.virginia.gov.

VA.R. Doc. No. R06-263; Filed June 6, 2006, 4:23 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.
Language which has been stricken indicates proposed text for deletion.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt 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: 14 VAC 5-30. Rules Governing Life Insurance and Annuity Replacements (amending 14 VAC 5-30-10 through 14 VAC 5-30-40, and 14 VAC 5-30-60 through 90; adding 14 VAC 5-30-51 and 14 VAC 5-30-55; repealing 14 VAC 5-30-50, 14 VAC 5-30-100 and Exhibit A).

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

Public Hearing Date: N/A -- Public comments may be submitted until September 1, 2006.

Agency Contact: Jacqueline K. Cunningham, Deputy Director, State Corporation Commission, Life and Health Division, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9074, FAX (804) 371-9944, or e-mail chaps30_45comments@scc.virginia.gov.

Summary:

The proposed amendments add annuities to the products under the rules governing replacement, and for consistency with the most recent National Association of Insurance Commissioners (NAIC) "Life Insurance and Annuities Replacement Model Regulation." The procedural requirements for insurers and agents have been amended so that they are consistent with the NAIC Model. New forms are also attached to the revised rules.

AT RICHMOND, JUNE 5, 2006

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: In the matter of CASE NO. INS-2006-00128
Adopting Revisions to the
Rules Governing Life
Insurance Replacements

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia 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 of Virginia 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 of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposal to revise and amend the "Rules Governing Life Insurance Replacements," which are set out at 14 VAC 5-30-10 through 14 VAC 5-30-100.

The revised and amended Rules adds annuities to the products under the Rules governing replacement and is consistent with the most recent National Association of Insurance Commissioners (NAIC) "Life Insurance and Annuities Replacement Model Regulation." The procedural requirements for insurers and agents have been amended so that they are consistent with the NAIC Model. Sections 50 and 100 are being repealed, and Sections 51 and 55 are being added. New forms are also attached to the Rules.

The Commission is of the opinion that the revised and amended Rules submitted by the Bureau of Insurance should be considered for adoption.

THEREFORE, IT IS ORDERED THAT:

(1) The revised and amended Rules entitled "Rules Governing Life Insurance and Annuity Replacements," which are set out at 14 VAC 5-30-10 through 14 VAC 5-30-100, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of the revised and amended Rules shall file such comments or hearing request on or before September 1, 2006, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2006-00128.

(3) The Bureau shall hold at least one meeting during the comment period, in order for interested parties to address questions about the Rules to the Bureau. The first meeting shall be held on July 11, 2006 at 9:00 a.m. in the Training Room located on the 3rd Floor of the State Corporation Commission, 1300 East Main Street, Richmond, Virginia, with subsequent meetings to be scheduled as necessary.

(4) If no request for a hearing on the adoption of the revised and amended Rules is filed on or before September 1, 2006, the Commission, upon consideration of any comments submitted in support of or in opposition to the revised and amended Rules, may adopt the Rules as revised and amended by the Bureau of Insurance.

(5) AN ATTESTED COPY hereof, together with a copy of the revised and amended Rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Jacqueline K. Cunningham, who forthwith shall give further notice of the adoption of the revised and amended Rules by mailing a copy of this Order, together with the revised and amended Rules, to all companies licensed by the Commission to write life insurance, variable life insurance, annuities, or variable annuities in Virginia.

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

(7) On or before June 9, 2006, the Commission's Division of Information Resources shall make available this Order and the attached revised and amended Rules on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(8) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (5) above.

CHAPTER 30. RULES GOVERNING LIFE INSURANCE AND ANNUITY REPLACEMENTS.

14 VAC 5-30-10. Purpose.

The purpose of this chapter (~~14 VAC 5-30-10 et seq.~~) is to regulate the activities of insurers and agents with respect to the replacement of existing life insurance and annuities and to protect the interests of life insurance policyholders and annuity purchasers by establishing minimum standards of conduct to be observed in the replacement or ~~proposed replacement of existing life insurance financed purchase transactions.~~

14 VAC 5-30-20. Definitions.

The following words and terms when used in this chapter, ~~should~~ shall have the following meaning unless the context clearly indicates otherwise:

"Agent" means a person defined in § 38.2-1800 of the Code of Virginia.

"Commission" means the State Corporation Commission.

~~"Conservation" means any attempt by the existing insurer or its agent to discourage a policyowner from the replacement of existing life insurance. A conservation does not include routine administrative procedures such as late payment reminders or late payment or reinstatement offers.~~

~~"Direct response insurer" means an insurer that does not utilize an agent in the sale or delivery of the policy.~~

"Direct-response solicitation" means a solicitation through a sponsoring or endorsing entity or individually, made solely through mail, telephone, the Internet or other mass communication media.

"Existing insurer" means the ~~insurer~~ insurance company whose policy or contract is or ~~is proposed to be replaced~~ will

be changed or affected in a manner described within the definition of "replacement."

~~"Existing life insurance" means any in force life insurance, including life insurance under a binding or conditional receipt or within the unconditional refund period.~~

"Existing policy or contract" means an individual life insurance policy (policy) or annuity contract (contract) in force, including a policy under a binding or conditional receipt or a policy or contract that is within an unconditional refund period.

"Financed purchase" means the purchase of a new policy or contract involving the actual or intended use of funds obtained by the withdrawal or surrender of, or by borrowing from values of an existing policy or contract to pay all or part of any premium due on the new policy or contract. For purposes of a regulatory review of an individual transaction only, if a withdrawal, surrender or borrowing involving the policy values of an existing policy is used to pay premiums on a new policy owned by the same policyholder and issued by the same company within four months before or 13 months after the effective date of the new policy, it will be deemed prima facie evidence of the policyholder's intent to finance the purchase of the new policy with existing policy values. This prima facie standard is not intended to increase or decrease the monitoring obligations contained in 14 VAC 5-30-60 A 5.

"Guaranteed elements" means the premiums, benefits, values, credits or charges under a policy of life insurance or an annuity contract that are guaranteed and determined at issue.

"Illustration" means a presentation or depiction that includes both guaranteed and nonguaranteed elements of a life insurance policy or an annuity contract over a period of years.

~~"Insurer" means any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's, fraternal benefit society, or any other legal entity defined as an "insurer" in the Code of Virginia insurance company required to be licensed under the laws of this Commonwealth.~~

"Marketing communication" means oral, printed, written, electronic, or other material of any type from any source which is used by an agent or insurer and which is designed to create or has the effect of creating public interest in life insurance or annuities, or in an insurer or agent, or induces or tends to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy or contract including, but not limited to:

1. Printed or published material, audiovisual material, mailing envelopes, descriptive literature of an insurer or agent used in direct mail, newspapers, magazines, radio, *Internet*, telephone and television scripts, billboards or similar displays;

2. Descriptive literature and sales aids of all kinds, authored by the insurer, its agents, or third parties, issued, distributed, or used by an insurer or agent including but not limited to circulars, leaflets, booklets, depictions, illustrations, pictures, form letters, *electronic solicitations*, pamphlets, brochures, and books or portions thereof;

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3. Materials, statements, or communications of any type used for the recruitment, training, and education of an insurer's sales personnel and agents which are designed to be used or are used to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy or contract; and

4. Prepared or extemporaneous sales talks, presentations, and material for use or used by sales personnel or agents.

"Marketing communication" for the purpose of this chapter does not include:

1. Communications or materials used within an insurer's own organization, not used as a sales aid, and not disseminated to the public;

2. Communications with policyholders policy or contract holders other than material urging them to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy; or

3. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

"Nonguaranteed elements" means the premiums, benefits, values, credits, or charges under a life insurance policy or an annuity contract that are not guaranteed or not determined at issue.

"Policy summary" means:

1. For policies or contracts other than universal life policies, a written statement regarding a policy or contract that shall contain to the extent applicable, but need not be limited to, the following information: current death benefit; annual contract premium; current cash surrender value; current dividend; application of current dividend; and amount of outstanding loan.

2. For universal life policies, a written statement that shall contain at least the following information: the beginning and end date of the current report period; the policy value at the end of the previous report period and at the end of the current report period; the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders); the current death benefit at the end of the current report period on each life covered by the policy; the net cash surrender value of the policy as of the end of the current report period; and the amount of outstanding loans, if any, as of the end of the current report period.

"Replacing insurer" means the insurer insurance company that issues or is proposed proposes to issue a new policy or annuity contract that is a replacement of replaces an existing life insurance policy or contract or is a financed purchase.

"Registered contract" means a variable annuity contract or variable life insurance policy subject to the prospectus delivery

requirements of the Securities Act of 1933 (15 USC § 77a et seq.).

"Replacement" means any a transaction in which a new life insurance or an annuity has been or policy or contract is to be purchased, and it is known or should be known to the proposing agent, or the proposing insurer if there is no agent is involved, knows or should know that because of such by reason of the transaction, an existing life insurance policy or contract has been or is to be:

1. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

2. ~~Changed~~ Converted to reduced paid-up or extended term insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

3. Amended to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force; or for which benefits would be paid;

4. Reissued with any reduction in cash value;;

5. Used in a financed purchase.

"Universal life policy" means a life insurance policy in which separately identified interest credits (other than in connection with dividend accumulation, premium deposit funds, or other supplementary accounts) and mortality and expense charges are made to the policy. A universal life policy may provide for other credits and charges, such as charges for the cost of benefits provided by the rider.

14 VAC 5-30-30. Exemptions.

A. Unless otherwise specifically included, this chapter (~~14 VAC 5-30-10 et seq.~~) shall not apply to:

~~1. Replacement of annuity contracts;~~

~~2. 1. Credit life insurance;~~

~~3. Life insurance issued in connection with a pension, profit-sharing, group, or other benefit plan qualifying for tax deductibility of premiums, provided that:~~

~~a. A portion or all of the premium is paid by someone other than the certificate holder, insured, or beneficiary;~~

~~b. No individual underwriting is required with respect to any proposed insurance policy, and~~

~~c. As to any plan otherwise qualifying for exemption by this subsection, full and complete disclosure of all material facts shall be provided the administrator of the plan subject to replacement.~~

~~4. Situations where the replacing insurer and the existing insurer are the same.~~

2. Group life insurance or group annuities where there is no direct solicitation of individuals by an agent. Direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating or enrolling individuals or, when initiated by an individual member of the group, assisting with the selection of investment options

offered by a single insurer in connection with enrolling that individual. Group life insurance or group annuity certificates marketed through direct response solicitation shall be subject to the provisions of 14 VAC 5-30-70;

3. Group life insurance and annuities used to fund prearranged funeral contracts;

4. An application to the existing insurer that issued the existing policy or contract when a contractual change or a conversion privilege is being exercised; or when the existing policy or contract is being replaced by the same insurer;

5. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company;

6. a. Policies or contracts used to fund (i) an employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act (ERISA) (29 USC § 1001 et seq.); (ii) a plan described by 26 USC §§ 401(a), 401(k) or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer; (iii) a governmental or church plan defined in 26 USC § 414 of the Internal Revenue Code, a governmental or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under 26 USC § 457 of the Internal Revenue Code; or (iv) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

b. Notwithstanding subdivision a of this subsection, this chapter shall apply to policies or contracts used to fund any plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and where the insurer has been notified that plan participants may choose from among two or more insurers and there is a direct solicitation of an individual employee by an agent for the purchase of a policy or contract. As used in this subsection, direct solicitation shall not include any group meeting held by an agent solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement or, when initiated by an individual employee, assisting with the selection of investment options offered by a single insurer in connection with enrolling that individual employee;

7. Where new coverage is provided under a life insurance policy or contract and the cost is borne wholly by the insured's employer or by an association of which the insured is a member;

8. Existing life insurance that is a nonconvertible term life insurance policy that will expire in five years or less and cannot be renewed;

9. Immediate annuities that are purchased with proceeds from an existing contract. Immediate annuities purchased with proceeds from an existing policy are not exempted from the requirements of this chapter;

10. Structured settlements.

B. Registered contracts shall be exempt from the requirements of 14 VAC 5-30-51 A 2 and 14 VAC 5-30-55 B with respect to the provision of illustrations or policy summaries; however, premium or contract contribution amounts and identification of the appropriate prospectus or offering circular shall be required instead.

14 VAC 5-30-40. Duties of agents.

A. ~~Each~~ An agent who initiates an application shall submit to the insurer to whom an application for life insurance is presented, with or as part of the application, a statement signed by both the applicant and the agent as to whether the applicant has existing policies or contracts. If no policies or contracts are indicated, the agent's duties with respect to replacement are complete.

~~1. A statement signed by the applicant as to whether replacement of existing life insurance is involved in the transaction; and~~

~~2. A statement signed by the agent as to whether the agent knows replacement is or may be involved in the transaction.~~

B. Where a replacement is involved, the agent shall:

~~1. Present to the applicant, not later than at the time of taking the application, a replacement notice as described in Exhibit A or other substantially similar form approved by the Commission. The notice shall be signed by both the applicant and the agent and left with the applicant.~~

~~2. Obtain with or as part of each application a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer and policy number. If a policy number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.~~

~~3. Leave with the applicant the original or a copy of written or printed marketing communications used for presentation to the applicant.~~

~~4. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to subdivision B1 of this section and a separate statement containing the information described in subdivision B2 of this section.~~

C. Each agent who uses a written or printed marketing communication in a conservation shall leave with the applicant the original or a copy of written or printed marketing communications used in the conservation.

B. If policies or contracts are listed indicating existing coverage referred to in subsection A of this section, the agent shall present and read to the applicant, not later than at the time of taking the application, a notice regarding replacements (Form 30-A) or other substantially similar form approved by the commission. However, no approval shall be required when amendments to the notice are limited to the omission of references not applicable to the product being sold or replaced. The notice shall be signed by both the applicant and the agent, attesting that the notice has been read aloud by the agent or that the applicant did not wish the notice to be read

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aloud (in which case the agent need not have read the notice aloud). The notice shall be left with the applicant.

C. The notice shall list all life insurance policies or annuities proposed to be replaced, properly identified by name of insurer, the insured or annuitant, and policy or contract number if available; and shall include a statement as to whether each policy or contract will be replaced or whether a policy will be used as a source of financing for the new policy or contract. If a policy or contract number has not been issued by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

D. In connection with a replacement transaction, the agent shall leave with the applicant, at the time an application for a new policy or contract is completed, the original or a copy of all marketing communications. Electronically presented marketing communications shall be provided to the policy or contract owner in printed form no later than at the time of policy or contract delivery.

E. Except as provided in 14 VAC 5-30-51 C, in connection with a replacement transaction, the agent shall submit to the insurer to which an application for a policy or contract is presented, a copy of each document required by this section, a statement identifying any preprinted or electronically presented company-approved marketing communications used, and copies of any individualized marketing communications, including any illustrations related to the specific policy or contract purchased.

14 VAC 5-30-50. Duties of all insurers. (Repealed.)

Each insurer shall:

~~1. Inform its agents or other personnel responsible for compliance with this chapter of the requirements of this chapter (14 VAC 5-30-10 et seq.).~~

~~2. Require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance.~~

14 VAC 5-30-51. Duties of replacing insurers that use agents.

A. Where a replacement is involved in the transaction, the replacing insurer shall:

1. Verify that the required forms are received and are in compliance with this chapter;

2. Notify any other existing insurer that may be affected by the proposed replacement within five business days of receipt of a completed application indicating replacement or when the replacement is identified, if not indicated on the application, and mail a copy of the available illustration or policy summary for the proposed policy or available disclosure document for the proposed contract within five business days of a request from an existing insurer;

3. Be able to produce copies of the notification regarding replacement required in 14 VAC 5-30-40 B, indexed by agent, for at least five years; and

4. Provide to the policy or contract owner notice of the right to examine the policy or contract for at least 10 days from the delivery of the policy or contract and the right of return to receive an unconditional full refund of all premiums or considerations paid on it, including any policy fees or charges or, in the case of a variable or market value adjustment contract, a payment of the cash surrender value provided under the contract plus the fees and other charges deducted from the gross premiums or considerations or imposed under the contract. The notice may be included in Form 30-A or 30-C.

B. In transactions where the replacing insurer and the existing insurer are the same or subsidiaries or affiliates under common ownership or control, credit shall be allowed for the period of time that has elapsed under the replaced policy's or contract's incontestability and suicide period up to the face value of the existing policy or contract. With regard to financed purchases, the credit may be limited to the amount the face value of the existing policy is reduced by the use of existing policy values to fund the new policy or contract.

C. If an insurer prohibits the use of marketing communication other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to 14 VAC 5-30-40 E, the insurer may:

1. Require with each application a statement signed by the agent that:

a. Represents that the agent used only company-approved marketing communications; and

b. States that copies of all marketing communications were left with the applicant in accordance with 14 VAC 5-30-40 D; and

2. Within 10 days of the issuance of the policy or contract:

a. Notify the applicant by sending a letter or by verbal communication with the applicant by a person whose duties are separate from the marketing area of the insurer, that the agent has represented that copies of all marketing communications have been left with the applicant in accordance with 14 VAC 5-30-40 D;

b. Provide the applicant with a toll-free number to contact company personnel involved in the compliance function if compliance did not occur;

c. Stress the importance of retaining copies of the marketing communications for future reference; and

3. Be able to produce a copy of the letter or other verification in the policy file for at least five years after the termination or expiration of the policy or contract.

14 VAC 5-30-55. Duties of the existing insurer.

A. Where a replacement is involved in the transaction, the existing insurer shall retain and be able to produce all replacement notifications received, indexed by replacing insurer, for at least five years.

B. Where a replacement is involved in the transaction, the existing insurer shall send a letter to the policy or contract owner advising of the right to receive information regarding

the existing policy or contract values including, if available, an illustration, or policy summary if an illustration cannot be produced within five business days of receipt of a notice that an existing policy or contract is being replaced. The information shall be provided within five business days of receipt of the request from the policy or contract owner.

C. Where a replacement is involved in the transaction and upon receipt of a request to borrow, surrender or withdraw any policy or contract values, the existing insurer shall send a notice, advising the policy or contract owner that the release of policy or contract values may affect the guaranteed elements, nonguaranteed elements, face amount or surrender value of the policy or contract from which the values are released. The notice shall be sent separate from the check if the check is sent to anyone other than the policy or contract owner. In the case of consecutive automatic premium loans, the insurer is only required to send the notice at the time of the first loan.

14 VAC 5-30-60. Duties of insurers that use agents.

A. Each insurer ~~that uses an agent in a life insurance or annuity sale~~ shall maintain a system of supervision and control to insure compliance with the requirements of this chapter that shall include at least the following:

~~1. Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent as to whether he or she knows replacement is or may be involved in the transaction.~~

~~2. Where a replacement is involved:~~

~~a. Require from the agent with the application for life insurance or annuity (i) a list of all of the applicant's existing life insurance to be replaced and (ii) a copy of the replacement notice provided the applicant pursuant to subdivision B1 of 14 VAC 5-30-40. Such existing life insurance shall be identified by name of insurer and policy number. If a policy number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.~~

~~b. Send to the existing insurer a written communication advising of the replacement or proposed replacement and including the name of the insured and the identification information with respect to the existing life insurance to be replaced that it obtained pursuant to subdivision 2a of this section. This written communication shall be made within three working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy is issued, whichever is sooner.~~

~~1. Inform its agents of the requirements of this chapter and incorporate the requirements of this chapter into all relevant agent training manuals prepared by the insurer;~~

~~2. Provide to each agent a written statement of the company's position with respect to the acceptability of replacements providing guidance to its agents as to the appropriateness of these transactions;~~

~~3. A system to review the appropriateness of each replacement transaction that the agent does not indicate is in accord with subdivision A 2 of this section;~~

~~4. Procedures to confirm that the requirements of this chapter have been met; and~~

~~5. Procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported by the applicant or agent. Compliance with this chapter may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring.~~

B. Each insurer shall have the capacity to monitor each agent's life insurance policy and annuity contract replacements for that insurer, and shall produce, upon request, and make such records available to the commission. The capacity to monitor shall include the ability to produce records for each agent's:

~~1. Life replacements, including financed purchases, as a percentage of the agent's total annual sales for life insurance;~~

~~2. Number of lapses of policies by the agent as a percentage of the agent's total annual sales for life insurance;~~

~~3. Annuity contract replacements as a percentage of the agent's total annual annuity contract sales;~~

~~4. Number of transactions that are unreported replacements of existing policies or contracts by the existing insurer detected by the company's monitoring system as required by subdivision A 5 of this section; and~~

~~5. Replacements, indexed by replacing agent and existing insurer.~~

C. Each insurer shall require with or as a part of each application for life insurance or an annuity a signed statement by both the applicant and the agent as to whether the applicant has existing policies or contracts.

D. Each insurer shall require a completed notice regarding replacements (Form 30-A) with each application for life insurance or an annuity that indicates an existing policy or contract.

E. When the applicant has existing policies or contracts, each insurer shall be able to produce copies of any marketing communication required by 14 VAC 5-30-40 E, the illustrations related to the specific policy or contract that is purchased, and the agent's and applicant's signed statements with respect to financing and replacement for at least five years after the termination or expiration of the proposed policy or contract.

F. Each insurer shall ascertain that the marketing communication and illustrations required by 14 VAC 5-30-40 E meet the requirements of this chapter and are complete and accurate for the proposed policy or contract.

G. If an application does not meet the requirements of this chapter, each insurer shall notify the agent and applicant and fulfill the outstanding requirements.

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H. Each insurer shall maintain records in paper, photograph, microprocess, magnetic, mechanical or electronic media, or by any process that accurately reproduces the actual document.

14 VAC 5-30-70. Duties of replacing insurers that are with respect to direct response insurers solicitations.

Each replacing insurer that is a direct response insurer shall:

~~1. If the insurer did not propose the replacement, send to the applicant with the policy a replacement notice as described in Exhibit A or other substantially similar form approved by the Commission.~~

A. In the case of an application that is initiated as a result of a direct response solicitation, the insurer shall require, with or as part of each completed application for a policy or contract, a statement asking whether the applicant, by applying for the proposed policy or contract, intends to replace, discontinue or change an existing policy or contract. If the applicant indicates a replacement or change is not intended or if the applicant fails to respond to the statement, the insurer shall send the applicant, with the policy or contract, a notice regarding replacement (Form 30-B), or other substantially similar form approved by the commission.

~~2. B. If the insurer has proposed the replacement or if the applicant indicates a replacement is intended and the insurer continues with the replacement, the insurer shall:~~

~~a. Provide to applicants or prospective applicants with or as a part of the application a replacement notice as described in Exhibit A or other substantially similar form approved by the Commission.~~

~~b. Request from the applicant with or as a part of the application, a list of all existing life insurance to be replaced. Such existing life insurance shall be identified by name of insurer.~~

~~c. Comply with the requirements of subdivision 2b of 14 VAC 5-30-60 if the applicant furnishes the names of the existing insurers.~~

1. Provide to the applicant or prospective applicant with the policy or contract a notice (Form 30-C), or other substantially similar form approved by the commission. In these instances the insurer may delete the references to the agent, including the agent's signature, and references not applicable to the product being sold or replaced, without having to obtain approval of the form from the commission. The insurer's obligation to obtain the applicant's signature shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of this notice. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed notice; and

2. Comply with the requirements of 14 VAC 5-30-51 A 2, if the applicant furnishes the names of the existing insurers, and the requirements of 14 VAC 5-30-51 A 3, A 4 and B.

14 VAC 5-30-80. Penalties.

~~A. Any An insurer, agent, representative, officer, or employee of an insurer failing to comply with the requirements of this chapter (14 VAC 5-30-10 et seq.) shall be subject to such penalties as may be appropriate under the insurance laws of Virginia.~~

~~B. This chapter (14 VAC 5-30-10 et seq.) does not prohibit the use of additional material other than that which is required that is not in violation of this chapter (14 VAC 5-30-10 et seq.) or any other Virginia statute or regulation.~~

~~C. Policyowners B. Policy and contract owners have the right to replace existing life insurance policies or contracts after indicating in or as part of the application for life insurance or annuity new coverage that such replacement is not their intention. However, patterns of such action by policyowners policy or contract owners who purchase the replacing policies from the same agent shall be deemed prima facie evidence of the agent's knowledge that replacement was intended in connection with the sale of these policies identified transactions, and such these patterns of action shall be deemed prima facie evidence of the agent's intent to violate this chapter (14 VAC 5-30-10 et seq.).~~

~~C. Where it is determined that the requirements of this chapter have not been met, the replacing insurer shall provide to the policyowner an in-force illustration if available, or policy summary for the replacement policy or available disclosure document for the replacement contract and the appropriate notice regarding replacements (Form 30-A or 30-C).~~

14 VAC 5-30-90. Severability.

~~If any section or portion of a section provision of this chapter (14 VAC 5-30-10 et seq.), or the applicability thereof its application to any person or circumstance, is for any reason held to be invalid by a court, the remainder of this chapter (14 VAC 5-30-10 et seq.), or and the applicability application of such provision the provisions to other persons, or circumstances shall not be affected thereby.~~

14 VAC 5-30-100. Relationship to other rules and regulations. (Repealed.)

~~If any portion of this chapter (14 VAC 5-30-10 et seq.) is inconsistent with any provision of any other regulation dealing with life insurance or annuity marketing practices or disclosure, said inconsistent portion shall be interpreted to be consistent with such other regulations.~~

EXHIBIT A:

REPLACING YOUR LIFE INSURANCE POLICY?

~~Are you thinking about buying a new policy and discontinuing or changing an existing policy? If you are, your decision could be a good one or a mistake. You will not know for sure unless you make a careful comparison of your existing policy and the proposed policy.~~

~~Make sure you understand the facts. You should ask the company or agent that sold you your existing policy to give you information about it.~~

~~Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.~~

~~We are required by Virginia law to notify your existing company that you may be replacing their policy.~~

Applicant's Signature

Date

Agent's Signature

FORMS

<p>NOTICE: The forms used in administering 14 VAC 5-30, Rules Governing Life Insurance and Annuity Replacements are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>

Form 30-A, Important Notice: Replacement of Life Insurance or Annuities (agent) (eff. 7/06).

Form 30-B, Notice Regarding Replacement (eff. 7/06).

Form 30-C, Important Notice: Replacement of Life Insurance or Annuities (no agent) (eff. 7/06).

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FORM 30-A (eff. 7/06)

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

This document must be signed by the applicant and the agent and a copy left with the applicant.

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests by reviewing the questions on page 2 of this form. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements before you make your purchase decision and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract?
 YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

If you answered "yes" to either of the above questions, list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured or annuitant, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED ANNUITANT	OR REPLACED (R)	OR FINANCING (F)
1.				
2.				
3.				

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all marketing communication used by the agent in the sales presentation. Be sure that you are making an informed decision.

The existing policy or contract is being replaced because _____.
I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name

Date

Agent's Signature and Printed Name

Date

I do not want this notice read aloud to me. (Applicant must initial only if he/she does not want the notice read aloud.)

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Form 30-A (p. 2)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

- PREMIUMS:** Are they affordable?
Could they change?
You're older—are premiums higher for the proposed new policy?
How long will you have to pay premiums on the new policy? On the old policy?
- POLICY VALUES:** New policies usually take longer to build cash values and to pay dividends.
Acquisition costs for the old policy may have been paid, you will incur costs for the new one.
What surrender charges do the policies have?
What expense and sales charges will you pay on the new policy?
Does the new policy provide more insurance coverage?
- INSURABILITY:** If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
You may need a medical exam for a new policy.
Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

- How are premiums for both policies being paid?
- How will the premiums on your existing policy be affected?
- Will a loan be deducted from death benefits?
- What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR LIFE PRODUCT:

- Will you pay surrender charges on your old contract?
- What are the interest rate guarantees for the new contract?
- Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

- What are the tax consequences of buying the new policy?
- Is this a tax free exchange? (See your tax advisor.)
- Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?
- Will the existing insurer be willing to modify the old policy?
- How does the quality and financial stability of the new company compare with your existing company?

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FORM 30-B (eff. 7/06)

NOTICE REGARDING REPLACEMENT
REPLACING YOUR LIFE INSURANCE POLICY OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one—or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed policy or contract's benefits.

Make sure you understand the facts. You should ask the company or agent that sold you your existing policy or contract to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

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FORM 30-C (eff. 7/06)

**IMPORTANT NOTICE:
REPLACEMENT OF LIFE INSURANCE OR ANNUITIES**

You are contemplating the purchase of a life insurance policy or annuity contract. In some cases this purchase may involve discontinuing or changing an existing policy or contract. If so, a replacement is occurring. Financed purchases are also considered replacements.

A replacement occurs when a new policy or contract is purchased and, in connection with the sale, you discontinue making premium payments on the existing policy or contract, or an existing policy or contract is surrendered, forfeited, assigned to the replacing insurer, or otherwise terminated or used in a financed purchase.

A financed purchase occurs when the purchase of a new life insurance policy involves the use of funds obtained by the withdrawal or surrender of or by borrowing some or all of the policy values, including accumulated dividends, of an existing policy, to pay all or part of any premium or payment due on the new policy. A financed purchase is a replacement.

You should carefully consider whether a replacement is in your best interests by reviewing the questions on page 2 of this form. You will pay acquisition costs and there may be surrender costs deducted from your policy or contract. You may be able to make changes to your existing policy or contract to meet your insurance needs at less cost. A financed purchase will reduce the value of your existing policy and may reduce the amount paid upon the death of the insured.

We want you to understand the effects of replacements and ask that you answer the following questions and consider the questions on the back of this form.

1. Are you considering discontinuing making premium payments, surrendering, forfeiting, assigning to the insurer, or otherwise terminating your existing policy or contract? YES NO
2. Are you considering using funds from your existing policies or contracts to pay premiums due on the new policy or contract? YES NO

Please list each existing policy or contract you are contemplating replacing (include the name of the insurer, the insured, and the policy or contract number if available) and whether each policy or contract will be replaced or used as a source of financing:

INSURER NAME	CONTRACT OR POLICY #	INSURED OR ANNUITANT	REPLACED (R) OR FINANCING (F)
1.			
2.			
3.			

Make sure you know the facts. Contact your existing company or its agent for information about the old policy or contract. If you request one, an in force illustration, policy summary or available disclosure documents must be sent to you by the existing insurer. Ask for and retain all marketing communication used by the agent in the sales presentation. Be sure that you are making an informed decision.

I certify that the responses herein are, to the best of my knowledge, accurate:

Applicant's Signature and Printed Name

Date

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Form 30-C (p. 2)

A replacement may not be in your best interest, or your decision could be a good one. You should make a careful comparison of the costs and benefits of your existing policy or contract and the proposed policy or contract. One way to do this is to ask the company or agent that sold you your existing policy or contract to provide you with information concerning your existing policy or contract. This may include an illustration of how your existing policy or contract is working now and how it would perform in the future based on certain assumptions. Illustrations should not, however, be used as a sole basis to compare policies or contracts. You should discuss the following with your agent to determine whether replacement or financing your purchase makes sense:

PREMIUMS: Are they affordable?
Could they change?
You're older—are premiums higher for the proposed new policy?
How long will you have to pay premiums on the new policy? On the old policy?

POLICY VALUES: New policies usually take longer to build cash values and to pay dividends.
Acquisition costs for the old policy may have been paid, you will incur costs for the new one.
What surrender charges do the policies have?
What expense and sales charges will you pay on the new policy?
Does the new policy provide more insurance coverage?

INSURABILITY: If your health has changed since you bought your old policy, the new one could cost you more, or you could be turned down.
You may need a medical exam for a new policy.
Claims on most new policies for up to the first two years can be denied based on inaccurate statements.
Suicide limitations may begin anew on the new coverage.

IF YOU ARE KEEPING THE OLD POLICY AS WELL AS THE NEW POLICY:

How are premiums for both policies being paid?
How will the premiums on your existing policy be affected?
Will a loan be deducted from death benefits?
What values from the old policy are being used to pay premiums?

IF YOU ARE SURRENDERING AN ANNUITY OR LIFE PRODUCT:

Will you pay surrender charges on your old contract?
What are the interest rate guarantees for the new contract?
Have you compared the contract charges or other policy expenses?

OTHER ISSUES TO CONSIDER FOR ALL TRANSACTIONS:

What are the tax consequences of buying the new policy?
Is this a tax free exchange? (See your tax advisor.)
Is there a benefit from favorable "grandfathered" treatment of the old policy under the federal tax code?
Will the existing insurer be willing to modify the old policy?
How does the quality and financial stability of the new company compare with your existing company?

Title of Regulation: 14 VAC 5-45. Rules Governing Suitability in Annuity Transactions (adding 14 VAC 5-45-10 through 14 VAC 5-45-50).

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

Public Hearing Date: Upon request -- Public comments may be submitted until September 1, 2006.

Agency Contact: Jacqueline K. Cunningham, Deputy Director, State Corporation Commission, Life and Health Division, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9074, FAX (804) 371-9944, or e-mail chaps30_45comments@scc.virginia.gov.

Summary:

The proposed regulations follow the National Association of Insurance Commissioners "Suitability in Annuity Transactions Model Regulation." The proposed regulations set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products, so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. The proposed regulations apply to any recommendation to purchase or exchange an annuity made to a consumer by an insurance agent, or an insurer where no agent is involved, that results in the purchase or exchange recommended. The proposed regulations are as a result of increasing reports of inappropriate sales of annuities to consumers of all ages.

AT RICHMOND, JUNE 2, 2006

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: In the matter of CASE NO. INS-2006-00129
Adopting New Rules
Governing Suitability in
Annuity Transactions

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia 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 of Virginia 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 of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance ("Bureau") has submitted to the Commission a proposal to adopt new "Rules Governing Suitability in Annuity Transactions," which are recommended to be set out at 14 VAC 5-45-10 through 14 VAC 5-45-50.

The proposed new Rules closely follow the National Association of Insurance Commissioners (NAIC) Model Regulation on the same subject. The proposed Rules are as a result of increasing reports of inappropriate sales of annuities to consumers of all ages.

The Commission is of the opinion that the proposed new Rules submitted by the Bureau of Insurance should be considered for adoption.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed new Rules entitled "Rules Governing Suitability in Annuity Transactions," which are recommended to be set out at 14 VAC 5-45-10 through 14 VAC 5-45-50, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of the proposed new Rules shall file such comments or hearing request on or before September 1, 2006, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2006-00129.

(3) The Bureau shall hold at least one meeting during the comment period, in order for interested parties to address questions about the Rules to the Bureau. The first meeting shall be held on July 11, 2006 at 9:00 a.m. in the Training Room located on the 3rd Floor of the State Corporation Commission, 1300 East Main Street, Richmond, Virginia, with subsequent meetings to be scheduled as necessary.

(4) If no request for a hearing on the adoption of the proposed new Rules is filed on or before September 1, 2006, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed new Rules, may adopt the Rules as proposed by the Bureau of Insurance.

(5) AN ATTESTED COPY hereof, together with a copy of the proposed new Rules, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Jacqueline K. Cunningham, who forthwith shall give further notice of the adoption of the proposed new Rules by mailing a copy of this Order, together with the proposed new Rules, to all companies licensed by the Commission to sell annuities or variable annuities in Virginia.

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

(7) On or before June 9, 2006, the Commission's Division of Information Resources shall make available this Order and the attached proposed new Rules on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>.

(8) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (5) above.

Proposed Regulations

CHAPTER 45.
RULES GOVERNING SUITABILITY IN ANNUITY
TRANSACTIONS.

14 VAC 5-45-10. Purpose and scope.

The purpose of this chapter is to set forth rules and procedures for recommendations to consumers that result in a transaction involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. This chapter shall apply to any recommendation to purchase or exchange an annuity made to a consumer by an agent, or insurer where no agent is involved, that results in the purchase or exchange recommended.

14 VAC 5-45-20. Definitions.

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

"Agent" or "insurance agent" means a person as defined in § 38.2-1800 of the Code of Virginia.

"Annuity" means a fixed, variable or modified guaranteed annuity that is individually solicited, whether the product is classified as an individual annuity or group annuity.

"Commission" means the State Corporation Commission.

"Insurer" means an insurance company required to be licensed under the laws of this Commonwealth.

"Recommendation" means advice provided by an agent, or an insurer where no agent is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

14 VAC 5-45-30. Exemptions.

Unless otherwise specifically included, this chapter shall not apply to recommendations involving:

1. Direct response solicitations where there is no recommendation based on information collected from the consumer pursuant to this chapter;
2. Contracts used to fund:
 - a. An employee pension or welfare benefit plan that is covered by the Employee Retirement Income Security Act of 1974 (29 USC § 1001 et seq.);
 - b. A plan described by 26 USC §§ 401(a), 401(k), 403(b), 408(k) or 408(p) of the Internal Revenue Code, if established or maintained by an employer;
 - c. A government or church plan defined in 26 USC § 414 of the Internal Revenue Code, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under 26 USC § 457 of the Internal Revenue Code;
 - d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

e. Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; or

f. Preneed funeral contracts as defined in § 54.1-2800 of the Code of Virginia.

14 VAC 5-45-40. Duties of insurers and agents.

A. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the agent, or the insurer where no agent is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his investments and other insurance products and as to his financial situation and needs.

B. Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an agent, or insurer where no agent is involved, shall make reasonable efforts to obtain information concerning:

1. The consumer's financial status;
2. The consumer's tax status;
3. The consumer's investment objectives; and
4. Other information used or considered to be reasonable by the agent, or the insurer where no agent is involved, in making recommendations to the consumer.

C. 1. Except as provided in subdivision 2 of this subsection, neither an agent, nor an insurer where no agent is involved, shall have any obligation to a consumer under subsection A of this section related to any recommendation if a consumer:

- a. Refuses to provide relevant information requested by the insurer or agent;
- b. Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or agent; or
- c. Fails to provide complete or accurate information.

2. An insurer or agent's recommendation subject to subdivision 1 of this subsection shall be reasonable under all the circumstances actually known to the insurer or agent at the time of the recommendation.

D. 1. An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this chapter is established and maintained by complying with subdivisions 3 and 4 of this subsection, or shall establish and maintain such a system, including, but not limited to:

- a. Maintaining written procedures; and
- b. Conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this chapter.

2. An agent and independent agency either shall adopt a system established by an insurer to supervise recommendations of its agents that is reasonably designed

to achieve compliance with this chapter, or shall establish and maintain such a system, including, but not limited to:

- a. Maintaining written procedures; and
 - b. Conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this chapter.
3. An insurer may contract with a third party, including an agent or independent agency, to establish and maintain a system of supervision as required by subdivision 1 of this subsection with respect to agents under contract with or employed by the third party.
4. An insurer shall make reasonable inquiry to assure that the third party contracting under subdivision 3 of this subsection is performing the functions required under subdivision 1 of this subsection and shall take action that is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:
- a. The insurer annually obtains a certification from a third party senior manager who has responsibility for the delegated functions that the manager has a reasonable basis to represent, and does represent, that the third party is performing the required functions; and
 - b. The insurer, based on reasonable selection criteria, periodically selects third parties contracting under subdivision 3 of this subsection for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.
5. An insurer that contracts with a third party pursuant to subdivision 3 of this subsection and that complies with the requirements to supervise in subdivision 4 of this subsection shall have fulfilled its responsibilities under subdivision 1 of this subsection.
6. An insurer, agent or independent agency is not required by subdivision 1 or 2 of this subsection to:
- a. Review, or provide for review of, all agent-solicited transactions; or
 - b. Include in its system of supervision an agent's recommendations to consumers of products other than the annuities offered by the insurer, agent or independent agency.
7. An agent or independent agency contracting with an insurer pursuant to subdivision 3 of this subsection, when requested by the insurer pursuant to subdivision 4 of this subsection, shall promptly give a certification as described in subdivision 4 or give a clear statement that it is unable to meet the certification criteria.
8. No person may provide a certification under subdivision 4 a of this subsection unless:
- a. The person is a senior manager with responsibility for the delegated functions; and

b. The person has a reasonable basis for making the certification.

E. Compliance with the National Association of Securities Dealers Conduct Rules (http://nasd.complinet.com/nasd/display/display.html?rbid=1189&element_id=1159000466) pertaining to suitability shall satisfy the requirements under this section for the recommendation of variable annuities. However, nothing in this subsection shall limit the commission's ability to enforce the provisions of this chapter.

14 VAC-5-45-50. Severability.

If any provision of this chapter or its application to any person or circumstance is for any reason held to be invalid by a court, the remainder of this chapter and the application of the provisions to other persons or circumstances shall not be affected.

VA.R. Doc. No. R06-260; Filed June 6, 2006, 4:40 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Title of Regulation: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18 VAC 60-20-20, 18 VAC 60-20-30, 18 VAC 60-20-250, 18 VAC 60-20-310, 18 VAC 60-20-320).**

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

Public Hearing Date: July 21, 2006 - 8:30 a.m.

Public comments may be submitted until August 25, 2006.
(See Calendar of Events section for additional information)

Agency Contact: Sandra Reen, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943, or e-mail sandra.reen@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Dentistry the authority to promulgate regulations to administer the regulatory system and to levy fees. The specific statutory mandate for an increase in fees is found in § 54.1-113 of the Code of Virginia.

Purpose: Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed to ensure that each board has sufficient revenue to cover its expenditures. At the conclusion of FY 05, the deficit of the board was \$532,651; it is projected that by the close of the 2004-2006 biennium, the Board of Dentistry will accumulate a deficit of \$1,047,443 and will continue to have a deficit through the next biennium, estimated to be \$1,644,301 at the end of FY07 and \$2,269,630 at the end of FY08. Since the fees from licensees will no longer generate sufficient funds to pay

Proposed Regulations

operating expenses for the board, a fee increase is essential by the renewal deadline in March 2007.

As mandated by law, the purpose of the proposed amendments is to establish fees sufficient to cover the policymaking, licensing and disciplinary activities of the Board of Dentistry. Without adequate funding, the licensing of practitioners could be delayed, and dental care in the Commonwealth would be less accessible. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect the public health and safety

Substance: 18 VAC 60-20-20 is amended to comply with a statutory mandate for the board to provide sufficient funding to cover expenses related to licensing, investigations and disciplinary proceedings. Renewal fees for dentists will increase from \$150 to \$315 per year; renewal fees for dental hygienists will increase from \$50 to \$80 per year. Other fees are amended proportionately, i.e., inactive fees are typically one-half the active renewal fee and late fees are one-third the renewal fee. The application fees for licensure by credentials are increased to \$525 for dentists and \$290 for hygienists, compared to the \$420 for licensure by examination for dentists and \$185 for hygienists. As proposed, the reinstatement fee would be inclusive of the renewal fee, the late fee and the fee for a reinstatement application.

Issues:

The primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions: Fee increases proposed by the Board of Dentistry should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide dental services to the public. In fact, with licensure by credentials now available for dentists, there may be a modest increase in the number of practitioners. An increase in the renewal fee will result in an additional \$165 per year for a dental license and \$30 per year for a dental hygienist. With those increases spread across the patient population, it is not anticipated that the proposed fee increases will have any effect on prices for consumers.

There would be considerable disadvantages to the public if the board took no action to address its deficit by increasing its fees to cover expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations. Potentially, the most serious consequence would be a reduction in or reprioritization of investigation of complaints against dentists and dental hygienists. There may be delays in adjudicating cases of substandard practice, resulting in potential danger to the patients in the Commonwealth.

Practitioners licensed by the Board of Dentistry will experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a special-

fund agency, renewal fees pay the vast majority of the expenses of board operations, which include inspections, investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure and education to other jurisdictions and entities, and communications with licensees about current practice and regulation.

The primary advantages and disadvantages to the agency or the Commonwealth: As is stated above, the consequence of not increasing fees of the board would be a reduction in services and staff, resulting in delays in licensing, reductions or delays in the cases investigated and brought through administrative proceedings to a hearing before the board. The board is solely funded by the fees charged to applicants and licensees. If increased fees are not adopted, the agency would have to cut its staff, both within the Board of Dentistry and within other divisions of the Department of Health Professions since the agency is dependent on revenues from the board for approximately 5.42% of its expenditures.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed amendments to regulation. The Board of Dentistry (board) proposes to raise fees for dentists and dental hygienists.

Result of analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated economic impact. Section 54.1-2400 (5) of the Code of Virginia (code), grants regulatory boards under the Department of Health Professions the authority to levy and collect fees sufficient to cover the expenses of a board. In addition, § 54.1-113 of the Code of Virginia (the "Callahan Act") stipulates the conditions under which health regulatory boards must adjust their fees:

Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

The second and third columns of Table 1 (see below) display board expenditures and revenues, respectively, for the last four completed fiscal years.¹ The fourth column, labeled Callahan Percentage, displays the percentage by which expenditures exceed revenues for the two year period ending in the fiscal year listed on the cell in question's row. Since the most recent Callahan Percentage exceeds 10%, the Callahan Act directs the board to raise its fees to cover expenses.

¹ Data Source: Department of Health Professions

Table 1

Fiscal Year	Expenditures	Revenues	Callahan Percentage
FY02	998,003	798,347	
FY03	1,088,963	1,098,757	10.0%
FY04	1,150,843	1,067,445	3.4%
FY05	1,360,332	1,115,755	15.0%

Giving consideration to future revenue and expenditure projections, the agency has determined that it needs to raise fees as detailed in Table 2 in order to avoid a deficit and to remain in compliance with the Callahan Act.

Table 2

Category	Current	Proposed
Dentistry Renewal (active)	\$150	\$315
Late Fee	\$50	\$105
Dental Hygiene (active)	\$50	\$80
Late Fee	\$20	\$26
Dentistry Renewal (inactive)	\$75	\$158
Dental Hygiene (inactive)	\$25	\$45
Temp. Resident Application	\$55	\$60
Reinstatement of Revoked Dentistry License	\$750	\$1,050
Reinstatement of Revoked Dental Hygiene License	\$500	\$250
Reinstatement of Suspended Dentistry License	\$350	\$790
Reinstatement of Suspended Dental Hygiene License	\$250	\$420
Dental License by Exam	\$225	\$420
Dental License by Credentials	n/a	\$525
Dental Hyg. Lic. by Exam	\$135	\$185
Dental Hyg. Lic. by Endorsement	\$135	\$290
Duplicate Wall Certificate	\$25	\$65
Duplicate License	\$10	\$21
Restricted License	\$150	\$315
Returned Check	\$25	\$35
Oral Surgeon Registration	\$175	\$185
Oral Surgeon Registration Reinstatement	\$175	\$360

The Department of Health Professions (department) points out that without adequate funding, the licensing of practitioners could be delayed, and dental care in the Commonwealth

would be less accessible. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect public health and safety. Thus there are both clear benefits and clear costs introduced by the fee increases. It is not clear whether or not the benefits exceed the costs. Since regulation of professions is not a market good, there is not an obvious market price at which speedier license processing and disciplinary investigations are valued.

Businesses and entities affected. The proposed regulations affect the Commonwealth's 5,552 licensed dentists, 4,079 licensed dental hygienists, 175 registered oral-maxillofacial surgeons, their patients, and individuals intending to apply for licensure or registration.² All or most dental practices qualify as small businesses.

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. The proposed fee increases are unlikely to significantly affect employment.

Effects on the use and value of private property. The proposed fee increases will moderately reduce the value of dental practices.

Small businesses: costs and other effects. All or most dental practices likely qualify as small businesses. The proposed fee increases will commensurately increase costs for these businesses.

Small businesses: alternative method that minimizes adverse impact. The board could increase fees by a smaller amount. But a smaller total fee increase would reduce the speed by which the board and department could conduct license processing and disciplinary investigations.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of

² Figures provided by the Department of Health Professions.

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the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Dentistry concurs with the analysis of the Department of Planning and Budget for the proposed regulation, 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, related to an increase in fees.

Summary:

The proposed amendments increase certain fees for the regulants of the board, including dentists and dental hygienists, as necessary to provide sufficient funding for the licensing and disciplinary functions of the board. An annual renewal fee for a dentist is increased from \$150 to \$315 and for a dental hygienist from \$50 to \$80. Other fees, such as application and late fees that are tied to the renewal fee, are increased correspondingly.

18 VAC 60-20-20. License renewal and reinstatement.

A. Renewal fees. Every person holding an active or inactive license, a full-time faculty license, or a restricted volunteer license to practice dentistry or dental hygiene shall, on or before March 31, renew his license. Every person holding a teacher's license, temporary resident's license, temporary resident's license or a temporary permit to practice dentistry or dental hygiene shall, on or before June 30, renew his license.

1. The fee for renewal of an active license or permit to practice or teach dentistry shall be ~~\$150~~ \$315, and the fee for renewal of an active license or permit to practice or teach dental hygiene shall be ~~\$50~~ \$80.
2. The fee for renewal of an inactive license shall be ~~\$75~~ \$158 for dentists and ~~\$25~~ \$45 for dental hygienists.
3. The fee for renewal of a restricted volunteer license shall be \$15.
4. The application fee for temporary resident's license shall be ~~\$55~~ \$60. The annual renewal fee shall be ~~\$35~~ \$40 a year. An additional fee for late renewal of licensure shall be \$15.

B. Late fees. Any person who does not return the completed form and fee by the deadline required in subsection A of this section shall be required to pay an additional late fee of ~~\$50~~ \$105 for dentists *with an active license* and ~~\$20~~ \$26 for dental hygienists *with an active license*. *The late fee shall be \$50 for dentists with an inactive license and \$15 for dental hygienists with an inactive license.* The board shall renew a license if the renewal form, renewal fee, and late fee are received within one year of the deadline required in subsection A of this section.

C. Reinstatement fees and procedures. The license of any person who does not return the completed renewal form and fees by the deadline required in subsection A of this section shall automatically expire and become invalid and his practice of dentistry/dental hygiene shall be illegal.

1. Any person whose license has expired for more than one year and who wishes to reinstate such license shall submit to the board a reinstatement application, ~~the renewal fee~~

and the reinstatement fee of ~~\$225~~ \$525 for dentists and ~~\$135~~ \$210 for dental hygienists.

2. Practicing in Virginia with an expired license may subject the licensee to disciplinary action and additional fines by the board.

3. The executive director may reinstate such expired license provided that the applicant can demonstrate continuing competence, that no grounds exist pursuant to § 54.1-2706 of the Code of Virginia and 18 VAC 60-20-170 to deny said reinstatement, and that the applicant has paid the unpaid ~~renewal fee,~~ the reinstatement fee and any fines or assessments. Evidence of continuing competence shall include hours of continuing education as required by subsection H of 18 VAC 60-20-50 and may also include evidence of active practice in another state or in federal service or current specialty board certification.

D. Reinstatement of a license previously revoked or indefinitely suspended. Any person whose license has been revoked shall submit to the board for its approval a reinstatement application and fee of ~~\$750~~ \$1,050 for dentists and ~~\$500~~ \$525 for dental hygienists. Any person whose license has been indefinitely suspended shall submit to the board for its approval a reinstatement application and fee of ~~\$350~~ \$790 for dentists and ~~\$250~~ \$420 for dental hygienists.

18 VAC 60-20-30. Other fees.

A. Dental licensure application fees. The application fee for a dental license *by examination*, a license to teach dentistry, a full-time faculty license, or a temporary permit as a dentist shall be ~~\$225~~ \$420. *The application fee for dental license by credentials shall be \$525.*

B. Dental hygiene licensure application fees. The application fee for a dental hygiene license by examination, a license to teach dental hygiene, or a temporary permit as a dental hygienist shall be ~~\$135~~ \$185. *The application fee for dental hygienist license by endorsement shall be \$290.*

C. Duplicate wall certificate. Licensees desiring a duplicate wall certificate shall submit a request in writing stating the necessity for such duplicate wall certificate, accompanied by a fee of ~~\$25~~ \$65.

D. Duplicate license. Licensees desiring a duplicate license shall submit a request in writing stating the necessity for such duplicate license, accompanied by a fee of ~~\$40~~ \$21. If a licensee maintains more than one office, a notarized photocopy of a license may be used.

E. Licensure certification. Licensees requesting endorsement or certification by this board shall pay a fee of ~~\$25~~ \$40 for each endorsement or certification.

F. Restricted license. Restricted license issued in accordance with § 54.1-2714 of the Code of Virginia shall be at a fee of ~~\$150~~ \$315.

~~G. Endorsement license. License by endorsement issued in accordance with 18 VAC 60-20-80 for dental hygienists shall be at a fee of \$135.~~

~~H. G. Restricted volunteer license. The application fee for licensure as a restricted volunteer dentist or dental hygienist~~

issued in accordance with § 54.1-2712.1 or § 54.1-2726.1 of the Code of Virginia shall be \$25.

† *H.* Returned check. The fee for a returned check shall be \$35.

18 VAC 60-20-250. Registration of oral and maxillofacial surgeons.

Within 60 days after the effective date of this section, every licensed dentist who practices as an oral and maxillofacial surgeon, as defined in § 54.1-2700 of the Code of Virginia, shall register his practice with the board and pay a fee of ~~\$175~~ \$185.

1. After initial registration, an oral and maxillofacial surgeon shall renew his registration annually on or before December 31 by payment of a fee of ~~\$175~~ \$185.
2. An oral and maxillofacial surgeon who fails to register or to renew his registration and continues to practice oral and maxillofacial surgery may be subject to disciplinary action by the board.
3. Within one year of the expiration of a registration, an oral and maxillofacial surgeon may renew by payment of the renewal fee and a late fee of ~~\$55~~ \$65.
4. After one year from the expiration date, an oral and maxillofacial surgeon who wishes to reinstate his registration shall update his profile and pay the ~~renewal fee and a reinstatement fee of \$175~~ \$360.

18 VAC 60-20-310. Credentials required for certification.

A. An applicant for certification shall:

1. Hold an active, unrestricted license from the board;
2. Submit a completed application and fee of ~~\$225~~ \$236;
3. Complete an oral and maxillofacial residency program accredited by the Commission on Dental Accreditation;
4. Hold board certification by the American Board of Oral and Maxillofacial Surgery (ABOMS) or board eligibility as defined by ABOMS;
5. Have current privileges on a hospital staff to perform oral and maxillofacial surgery; and
6. If his oral and maxillofacial residency or cosmetic clinical fellowship was completed after July 1, 1996, and training in cosmetic surgery was a part of such residency or fellowship, the applicant shall submit:
 - a. A letter from the director of the residency or fellowship program documenting the training received in the residency or in the clinical fellowship to substantiate adequate training in the specific procedures for which the applicant is seeking certification; and
 - b. Documentation of having performed as primary or assistant surgeon at least 10 proctored cases in each of the procedures for which he seeks to be certified.
7. If his oral and maxillofacial residency was completed prior to July 1, 1996, or if his oral and maxillofacial residency was completed after July 1, 1996, and training in cosmetic

surgery was not a part of the applicant's residency, the applicant shall submit:

a. Documentation of having completed didactic and clinically approved courses to include the dates attended, the location of the course, and a copy of the certificate of attendance. Courses shall provide sufficient training in the specific procedures requested for certification and shall be offered by:

- (1) An advanced specialty education program in oral and maxillofacial surgery accredited by the Commission on Dental Accreditation;
- (2) A medical school accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association;
- (3) The American Dental Association (ADA) or one of its constituent and component societies or other ADA Continuing Education Recognized Programs (CERP) approved for continuing dental education; or
- (4) The American Medical Association approved for category 1, continuing medical education.

b. Documentation of either:

- (1) Holding current privileges to perform cosmetic surgical procedures within a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations; or
- (2) Having completed at least 10 cases as primary or secondary surgeon in the specific procedures for which the applicant is seeking certification, of which at least five shall be proctored cases as defined in this chapter.

18 VAC 60-20-320. Renewal of certification.

In order to renew his certification to perform cosmetic procedures, an oral and maxillofacial surgeon shall possess a current, active, unrestricted license to practice dentistry from the Virginia Board of Dentistry and shall submit along with the renewal application a fee of ~~\$400~~ \$105 on or before December 31 of each year. If an oral and maxillofacial surgeon fails to renew his certificate, the certificate is lapsed and performance of cosmetic procedures is not permitted. To renew a lapsed certificate within one year of expiration, the oral and maxillofacial surgeon shall pay the renewal fees and a late fee of \$35. To reinstate a certification that has been lapsed for more than one year shall require completion of a reinstatement form documenting continued competency in the procedures for which the surgeon is certified and payment of a reinstatement fee of \$225.

<p>NOTICE: The forms used in administering 18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.</p>

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FORMS

~~Outline and Explanation of Documentation Required for Dental Licensure by Exam, Teacher's License, Restricted License, Full Time Faculty License, and Temporary Permit Application Requirements for Dentists (rev. 4/2/02 6/06).~~

Application for Licensure to Practice Dentistry (rev. 12/02).

Application for Restricted Volunteer Licensure to Practice Dentistry and Dental Hygiene (eff. 7/98).

Requirements and Instructions for a Temporary Resident's License to Persons Enrolled in Advanced Dental Education Programs (eff. 7/04 6/06).

Application for Temporary Resident's License (eff. 7/04).

Form A, Certification of Dental School for Temporary Resident's License (eff. 7/04).

Form B, Certification from Dean of Dental School or Director of Accredited Graduate Program, Temporary Resident's License (eff. 7/04).

Form C, Certification of Dental Licensure, Temporary Resident's License (eff. 7/04).

Form D, Chronology, Temporary Resident's License (eff. 7/04).

Form A, Certification of Dental/Dental Hygiene School (rev. 12/02).

Form AA, Sponsor Certification for Dental/Dental Hygiene Volunteer License (eff. 7/98).

Form B, Chronology (rev. 12/02).

Form C, Certification of Dental/Dental Hygiene Boards (rev. 12/02).

~~Outline and Explanation of Documentation Required for Dental Hygiene Licensure by Exam, Teacher's License, Dental Hygiene by Endorsement, and Dental Hygiene Temporary Permit Licensure Procedures for Dental Hygienists (rev. 4/2/02 6/06).~~

Application for Licensure to Practice Dental Hygiene (rev. 12/02).

Instructions for Reinstatement (rev. 4/2/02 6/06).

Reinstatement Application for Dental/Dental Hygiene Licensure (rev. 12/02).

Instructions for Application for Reactivation of License (rev. 6/06).

Application for Reactivation of License (rev. 6/06).

Radiology Information for Dental Assistants (rev. 7/97).

Renewal Notice and Application, 0401 Dentist (rev. 12/02).

Renewal Notice and Application, 0402 Dental Hygienist (rev. 12/02).

Renewal Notice and Application, 0404 Dental Teacher (rev. 12/02).

Renewal Notice and Application, 0406 Dental Hygiene Teacher (rev. 12/02).

Renewal Notice and Application, 0411 Full-time Faculty (rev. 12/02).

Renewal Notice and Application, 0438 Cosmetic Procedure Certification (rev. 12/02).

Renewal Notice and Application, 0439 Oral and Maxillofacial (rev. 12/02).

Application for Certification to Perform Cosmetic Procedures (rev. 4/2/02 6/06).

Rhinoplasty/similar Procedures (rev. 7/02).

Blepharoplasty/similar Procedures (rev. 7/02).

Rhytidectomy/similar Procedures (rev. 7/02).

Submental liposuction/similar Procedures (rev. 7/02).

Browlift/either open or endoscopic technique/similar Procedures (rev. 7/02).

Otoplasty/similar Procedures (7/02).

Laser Resurfacing or Dermabrasion/similar Procedures (rev. 7/02).

Platysmal muscle plication/similar Procedures (rev. 7/02).

Application Review Worksheet (rev. 7/02).

Practitioner Questionnaire (rev. 12/02).

Oral and Maxillofacial Surgeon Registration of Practice (rev. 4/2/02 6/06).

Application for Registration for Volunteer Practice (eff. 12/02).

Sponsor Certification for Volunteer Registration (eff. 1/03).

VA.R. Doc. No. R06-27; Filed June 7, 2006, 10:10 a.m.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Title of Regulation: 18 VAC 65-20. Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-70, 18 VAC 65-20-130, 18 VAC 65-20-140 and 18 VAC 65-20-154).

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

Public Hearing Date: July 18, 2006 - 9 a.m.

Public comments may be submitted until August 25, 2006.
(See Calendar of Events section for additional information)

Agency Contact: Elizabeth Young, Executive Director, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943, or e-mail elizabeth.young@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the board the authority to promulgate regulations to administer the regulatory system and to levy fees. The specific statutory

mandate for an increase in fees is found in § 54.1-113 of the Code of Virginia.

Purpose: Section 54.1-113 of the Code of Virginia requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed to ensure that each board has sufficient revenue to cover its expenditures. At the conclusion of FY06, it is projected that the deficit of the board will be \$5,472 and will continue to have a deficit through the next biennium, estimated to be \$104,116 at the end of FY07 and \$210,104 at the end of FY08. Since it is projected that fees from licensees will no longer generate sufficient funds to pay operating expenses for the board, a fee increase is essential in 2007.

The purpose of the proposed amendments is to establish fees sufficient to cover the administrative and disciplinary activities of the Board of Funeral Directors and Embalmers. Without adequate funding, the licensing of practitioners could be delayed and the board would soon not have sufficient funding to carry out its investigative and disciplinary activities in order to protect the public health, safety and welfare.

Substance: 18 VAC 65-20-70 is amended to comply with a statutory mandate for the board to provide sufficient funding to cover expenses related to licensing, investigations and disciplinary proceedings. Renewal fees for funeral services licensees will increase from \$150 to \$175 per year; renewal fees for funeral establishments will increase from \$225 to \$300 per year. Other fees are amended proportionately, i.e., inactive fees are typically one-half the active renewal fee and late fees are one-third the renewal fee. The application fee for a funeral service license is increased from \$150 to \$275 and for establishments from \$225 to \$300 to be inclusive of the first annual renewal. As proposed, the reinstatement fee would be inclusive of the renewal fee, the late fee and the fee for a reinstatement application, and the reinstatement fee following suspension would be \$500 and after revocation, it would be \$1,000 to account for costs relating to background investigations and conducting hearings.

Issues:

The primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions: Fee increases proposed by the Board of Funeral Directors and Embalmers should have no disadvantage to the consuming public. There is no projection of a reduction in the number of applicants for licensure or the number of licensed persons available to provide funeral services to the public. An increase in the renewal fee will result in an additional \$25 per year for a funeral service license and \$75 per year for an establishment license. With those increases spread across the consuming population, it is not anticipated that the proposed fee increases will have any effect on prices for consumers.

There would be considerable disadvantages to the public if the board took no action to address its deficit by increasing its fees to cover expenses. The only alternative currently available under the Code of Virginia would be a reduction in services and staff, which would result in delays in licensing applicants who would be unable to work and delays in approval or disapproval of candidates to sit for examinations.

Potentially, the most serious consequence would be a reduction in or reprioritization of investigation of complaints against funeral directors and establishments. There may be delays in adjudicating cases of substandard practice or fraud, resulting in potential danger to consumers in the Commonwealth.

Practitioners licensed by the board will experience increased renewal fees under the proposed regulations. While that is a disadvantage to the licensees, the alternative of reduced services for the board would be unacceptable to applicants, licensees and the general public. As a special-fund agency, renewal fees pay the vast majority of the expenses of board operations, which include inspections, investigation of complaints, adjudication of disciplinary cases, review and approval of applicants, verification of licensure to other jurisdictions and entities, and communications with licensees about current practice and regulation.

The primary advantages and disadvantages to the agency or the Commonwealth: As is stated above, the consequence of not increasing fees of the board would be a reduction in services and staff, resulting in delays in licensing, reductions or delays in the cases investigated and brought through administrative proceedings to a hearing before the board. The board and the Department of Health Professions are solely funded by the fees charged to applicants and licensees.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Funeral Directors and Embalmers (board) proposes to increase licensure fees for funeral service licensees and for funeral establishments.

Result of analysis. There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated economic impact. Section 54.1-201.4 of the Code of Virginia grants regulatory boards under the Department of Health Professions (DHP) the authority to levy and collect fees sufficient to cover the expenses of a board. Section 54.1-2400.5 of the code requires the board "To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards."

DHP projects the following deficits for the board if fees are not changed: \$5,472 at the conclusion of fiscal year 2006 (FY06), \$104,116 at the end of FY07, and \$210,104 at the end of FY08. In order to generate sufficient funds for operating expenses, the board proposes to raise fees as described in Table 1 below.

Table 1

Category	Current	Proposed
Funeral Service, Funeral Director or Embalmer License (initial)	\$150	\$275
Funeral Service, Funeral Director	\$150	\$175

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or Embalmer Lic. (renewal)		
Funeral Service, Funeral Director or Embalmer Lic. (late fee)	\$50	\$60
Funeral Service, Funeral Director or Embalmer License (reinstatement)	\$150 +\$50 per year expired	\$275
Funeral Service Establishment License (initial)	\$225	\$500
Funeral Service Establishment License (renewal)	\$225	\$300
Funeral Service Establishment License (late fee)	\$50	\$100
Funeral Service Establishment License (reinstatement)	\$225 +\$50 per year expired	\$500
Surface Transportation & Removal Service Registration (initial)	\$250	\$300
Surface Transportation & Removal Service Reg. (renewal)	\$250	\$250
Surface Transportation & Removal Service Reg. (late fee)	\$50	\$85
Surface Transportation & Removal Service Reg. (reinstatement)	\$250 +\$50 per year expired	\$350
Courtesy Card (initial)	\$100	\$275
Courtesy Card (renewal)	\$100	\$175
Courtesy Card (late fee)	\$50	\$60
Courtesy Card (reinstatement)	\$100 +\$50 per year expired	\$275
Crematory (initial)	\$100	\$200
Crematory (renewal)	\$100	\$150
Category	Current	Proposed
Crematory (late fee)	\$50	\$50
Crematory (reinstatement)	\$100 +\$50 per year expired	\$225
Waiver of Full-time Manager Requirement (initial)	\$100	\$150
Waiver of Full-time Manager Requirement (renewal)	\$100	\$100
Waiver of Full-time Manager Requirement (late fee)	\$50	\$35
Reinstatement following suspension	Relevant Renewal Fee +\$50 per year expired	\$500
Reinstatement following revocation	Relevant Renewal Fee +\$50 per year expired	\$1,000
Change of Manager or Establishment Name	\$50	\$75
Duplicate Wall Certificates	\$25	\$60
Re-inspection for Change of Location or Ownership	\$100	\$300
Continuing Education Provider	\$200	\$300

Approval (initial or renewal)		
Continuing Education Provider Approval (late fee)	\$50	\$100
Review of Additional Courses for Approved Cont. Ed. Provider	\$250	\$300

DHP points out that without adequate funding, the licensing of practitioners could be delayed, and funeral services in the Commonwealth would be less accessible. In addition, sufficient funding is essential to carry out the investigative and disciplinary activities of the board in order to protect public health and safety. Thus there are both clear benefits and clear costs introduced by the fee increases. It is not clear whether or not the benefits exceed the costs. Since regulation of professions is not a market good, there is not an obvious market price at which speedier license processing and disciplinary investigations are valued.

Businesses and entities affected. The proposed regulations affect the 1,454 funeral service providers, 119 funeral directors, 6 embalmers and 470 funeral establishments licensed in the Commonwealth, as well as their clients. Approximately 320 to 340 of the funeral establishments would be considered small businesses. The rest are establishments that are owned by large, national or international corporations. In addition, other licensees or regulated entities affected by these regulations that would be considered small businesses would include 70 crematories, 101 courtesy card holders, 34 surface removal and transportation businesses, and 31 continuing education provider.

Localities particularly affected. The proposed amendments potentially affect localities throughout Virginia.

Projected impact on employment. The proposed fee increases are unlikely to significantly affect employment.

Effects on the use and value of private property. The proposed fee increases will slightly decrease the value of licensees' businesses.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive

or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Funeral Directors and Embalmers concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 65-20 related to amendments to increase certain fees.

Summary:

The proposed amendments increase certain fees for the regulants of the board as necessary to provide sufficient funding for its licensing and disciplinary functions. An annual renewal fee for a funeral service licensee increases from \$150 to \$175 and for a funeral establishment from \$225 to \$300. Other fees, such as application and late fees that are tied to the renewal fee, are increased correspondingly.

18 VAC 65-20-70. Required fees.

A. The following fees shall apply for initial licensure or registration ~~and for renewal of licensure or registration:~~

- 1. License to practice funeral service or as a funeral director or an embalmer ~~\$150~~ \$275
- 2. Funeral service establishment license ~~\$225~~ \$500
- 3. Surface transportation and removal service registration ~~\$250~~ \$300
- 4. Courtesy card \$100 \$275
- 5. Crematory ~~\$100~~ \$200
- 6. Waiver of full-time manager requirement ~~\$100~~ \$150

B. The following fees shall apply for renewal of licensure or registration:

- 1. License to practice funeral service or as a funeral director or an embalmer \$175
- 2. Funeral service establishment license \$300
- 3. Surface transportation and removal service registration \$250
- 4. Courtesy card \$175
- 5. Crematory \$150
- 6. Waiver of full-time manager requirement \$100

C. The following fees shall apply for late renewal of licensure or registration up to one year following expiration:

- 1. License to practice funeral service or as a funeral director or an embalmer \$60
- 2. Funeral service establishment license \$100
- 3. Surface transportation and removal service registration \$85
- 4. Courtesy card \$60

- 5. Crematory \$50
- 6. Waiver of full-time manager requirement \$35

D. The following fees shall apply for reinstatement of licensure or registration:

- 1. License to practice funeral service or as a funeral director or an embalmer \$275
- 2. Establishment license \$500
- 3. Surface transportation and removal service registration \$350
- 4. Courtesy card \$275
- 5. Crematory \$225
- 6. Reinstatement following suspension \$500
- 7. Reinstatement following revocation \$1,000

~~B-~~ E. Other fees.

- ~~1. Reinstatement fee for each year of licensure or registration expiration \$50~~
- 2. 1. Change of manager or establishment name ~~\$50~~ \$75
- 3. 2. Verification of license or registration to another state \$50
- 4. 3. Duplicate license, registration, or courtesy card \$15
- ~~5. 4. Duplicate wall certificates \$25~~ \$60
- ~~6. 5. Change of ownership \$100~~
- ~~7. 6. Nonroutine reinspection for (i.e., structural change to preparation room, change of location or ownership) \$100~~ \$300

F. Fees for approval of continuing education providers.

- 1. Application or renewal for continuing education provider ~~\$200~~ \$300
- 2. Late renewal of continuing education provider approval \$100
- 3. Review of additional courses not included on initial or renewal application ~~\$250~~ \$300

18 VAC 65-20-130. Renewal of license; registration.

A. A person, establishment, crematory, courtesy card holder or surface transportation and removal service that desires to renew its license or registration for the next year shall, not later than the expiration date as provided in 18 VAC 65-20-120, submit the renewal application and applicable fee. In order to renew an active funeral service, director or embalmer license, a licensee shall be required to comply with continuing competency requirements set forth in 18 VAC 65-20-151.

B. A person who or entity that desires to renew an expired license for up to one year following expiration shall comply

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with requirements of subsection A of this section and also submit the applicable fee for late renewal.

~~B-~~ C. A person who or entity which fails to renew a license, registration, or courtesy card by the expiration dates prescribed in 18 VAC 65-20-120 shall be deemed to have an invalid license, registration, or courtesy card and continued practice may subject the licensee to disciplinary action by the board.

18 VAC 65-20-140. Reinstatement of expired license or registration.

A. The board may consider reinstatement of an expired license or registration *that has not been renewed within one year of expiration* for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of ~~all applicable delinquent renewal fees and the additional~~ reinstatement fee prescribed in 18 VAC 65-20-70.

B. If the Virginia license of a funeral service provider, funeral director and embalmer is lapsed three years or less and the applicant is seeking reinstatement, he shall provide evidence of having completing the number of continuing competency hours required for the period in which the license has been lapsed.

C. When a license is not reinstated within three years of its expiration date, an applicant shall reapply for licensure and pass the state examination.

18 VAC 65-20-154. Inactive license.

A. A funeral service licensee, funeral director or embalmer who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee of ~~\$75~~ \$90, be issued an inactive license. *The fee for late renewal up to one year following expiration of an inactive license shall be \$30.*

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice funeral service in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A funeral service licensee, funeral director or embalmer who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

NOTICE: The forms used in administering 18 VAC 65-20, Regulations of the Board of Funeral Directors and Embalmers, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Health Professions, 6603 West Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Application for a License to Practice Funeral Service (rev. ~~12/02~~ 6/06).

Application for Courtesy Card (rev. ~~12/02~~ 6/06).

Application for New Establishment, Branch Establishment, Change of Location, Change of Ownership, Change of Trade Name, Change of Manager (rev. ~~12/02~~ 6/06).

Application for Waiver of Full-time Manager Requirement (rev. ~~12/02~~ 6/06).

Application for Crematory Registration (rev. ~~12/02~~ 6/06).

Application for Renewal for Waiver of Full-time Manager Requirement (rev. 12/02).

Verification of State Licensure (rev. 12/02).

Application for Surface Transportation and Removal Service Registration (rev. ~~12/02~~ 6/06).

Application for Approval as a Continuing Education Provider (eff. 6/06).

Application for Reinstatement of Funeral Service License (eff. 6/06).

License Renewal Notice and Application, 0502, Funeral Service Providers (rev. 12/02).

License Renewal Notice and Application, 0501, Funeral Establishments (rev. 12/02).

License Renewal Notice and Application, 0506, Courtesy Card (rev. 12/02).

License Renewal Notice and Application, 0509, Surface Transportation (rev. 12/02).

License Renewal Notice and Application, 0510, Crematories (rev. 12/02).

Appendix I: General Price List (rev. 12/02).

Appendix II: Casket Price List; Outer Burial Container Price List (rev. 12/02).

Appendix III: Itemized Statement of Funeral Goods and Services Selected (rev. 12/02).

Appendix IV: Embalming Record (rev. 12/02).

VA.R. Doc. No. R06-28; Filed June 7, 2006, 10:05 a.m.

Title of Regulation: 18 VAC 65-40. Resident Trainee Program for Funeral Service (amending 18 VAC 65-40-10, 18 VAC 65-40-40, 18 VAC 65-40-90, 18 VAC 65-40-110, 18 VAC 65-40-130, 18 VAC 65-40-220, 18 VAC 65-40-250, 18 VAC 65-40-320, 18 VAC 65-40-340; repealing 18 VAC 65-40-160 and 18 VAC 65-40-300).

Statutory Authority: §§ 54.1-2400 and 54.1-2817 of the Code of Virginia.

Public Hearing Date: July 28, 2006 - 9 a.m.

Public comments may be submitted until August 25, 2006.

(See Calendar of Events section for additional information)

Agency Contact: Elizabeth Young, Executive Director, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943, or e-mail elizabeth.young@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards including the responsibility of the Board of Funeral Directors and Embalmers to promulgate regulations, levy fees, administer a registration and renewal program, and discipline regulated professionals.

The legal authority to promulgate regulations for resident trainees is found in § 54.1-2817 of the Code of Virginia.

Purpose: The board has identified a need to amend regulations that unnecessarily restrict the opportunities for persons interested in the funeral profession. Today, many of those are nontraditional or second career students who find it burdensome to obtain practical experience as a trainee on a full-time basis. The goal of the amended regulations is to add more flexibility to the program and, at the same time, require more accountability for trainees and their supervisors to ensure that they are adequately trained in all aspects of funeral service and prepared to take the national examinations. Adequate preparation and close supervision are necessary to ensure that the consuming public is protected from mismanagement, fraud or unhealthy practices in a funeral establishment.

Substance: In order to provide more flexibility in the resident trainee program, the board proposes to allow the trainee to complete the required hours within a fewer number of months and to combine part-time employment as a trainee with part-time schooling or other employment. Other changes will add accountability for the supervision of the trainee by requiring the supervisor to have at least two years of practice experience before serving as a trainer and requiring specific training in cremation. The training site must have at least 50 funerals and 50 embalmings each year, but additional training sites may be used to complete the requirements for a traineeship. The board is also increasing the application fee and adding a fee for registration of supervision, but is allowing a trainee to reinstate for up to one year following expiration, rather than having to reapply. The annual renewal expiration is being changed for consistency with other occupations under the board from January to March.

Issues: The primary advantage to the consumers of funeral services could be an increase in the number of individuals who would become resident trainees and eventually funeral service licensees because of the flexibility of "part-time" training or the ability to complete the program within a shorter time frame. In addition, specific requirements for training in cremation and preneed will benefit consumers who are seeking those services from funeral establishments. There are no disadvantages to consumers.

There are no advantages or disadvantages to the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Board of Funeral Directors and Embalmers (board) proposes to amend the Regulations for the Resident Trainee Program (program) in Funeral Service by:

- Allowing eligible funeral functionaries who are under contract with a funeral home to supervise funeral trainees,
- Requiring that all eligible funeral functionaries have two consecutive years in practice before supervising trainees, and
- Requiring that these functionaries register with the board to ensure experience requirements are met.

Supervisors will also need to arrange training in preneed planning and cremation; supervisors whose training sites do not offer these services will be allowed to arrange training in preneed planning and cremation services at another licensed funeral establishment.

The proposed regulation will also increase, from 35 to 50, the minimum number of funerals that must be performed, and the number of bodies that must be embalmed, during any given 12-month period at funeral establishments that serve as training sites. If a training site does not have the business volume to meet this requirement, trainees will have to seek approval to use more than one training site.

This proposed regulation will also allow resident trainees more discretion in how they manage their training schedule:

- Resident trainees will be able to work for training credit between 20 and 60 hours a week.
- Training requirements will be measured in hours worked rather than in months of ongoing training.
- Resident trainees will have the option of continuing interrupted training with a new supervisor or resuming interrupted training under the direction of their most recent supervisor.
- Resident trainees will be able to attend school full time while they are training.
- Resident trainees will be able to renew their registration for up to a year after it expires and will be able to reinstate their registration, without filling out a new application for registration, for up to three years after training is interrupted.

To accommodate these changes to the program, the board proposes to increase some existing fees and add two new fees to the program's fee structure.

Result of analysis. The benefits likely exceed the costs for all but one of the changes encompassed by the proposed regulation. There is not enough information to tell whether costs or benefits will dominate for that one proposed change. Detailed analysis can be found in the following section.

Estimated economic impact. Current regulation allows funeral service licensees, licensed funeral directors and licensed

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embalmers to supervise registered trainees as long as they are employees of the funeral establishment where training is taking place. The current regulation only requires that supervisors be licensed in one of the allowed fields so newly licensed individuals are just as able to supervise training as individuals who have been licensed for many years. The proposed regulation will loosen the one restriction on supervisors by allowing licensed individuals who are under contract with a funeral establishment, but are not employees, to supervise training at that establishment. The board proposes to loosen this restriction because there are no substantive differences between statutory employees and independent contractors in either the services they perform or their ability to impart knowledge of those services to trainees.

The proposed regulation will also impose a new restriction on supervisors; licensed individuals will be required to have been in practice for two continuous years before they will be allowed to supervise trainees. The board believes that funeral functionaries with at least that much experience will have been confronted with most or all of the various problems that might arise during an embalming or funeral and will, therefore, be able to pass on the solutions to these problems to their trainees. There appears to be, however, no evidence that a lack of this experience requirement in the past has proved detrimental for funeral trainees or for the public that funeral homes serve. Funeral functionaries who currently serve as supervisors will not have to meet experience requirements but will have to register with the board.

These two regulatory changes, loosening employment requirements and instituting requirements for supervisors' years in practice, will tend to have antipodal economic effects. Allowing independent contractor licensees to supervise trainees will increase the total number of supervisors in the state and, thus, allow trainees greater choice as to where and with whom they train. To the extent that individuals may have wanted to undertake a funeral resident traineeship, but were unable to because the pool of supervisors was too small to allow it, this regulatory change may lead to a larger population of funeral licensees. An increased population of licensees offering funeral services will tend to increase choice and lower costs for consumers.

The greater experience requirements that the board proposes to impose on trainee supervisors will, conversely, tend to decrease the total pool of supervisors and, so, would decrease the choices available to trainees and, ultimately, consumers. It is unclear which of these effects will overwhelm the other. If the number of independent contractors who will now be able to supervise trainees is greater than the number of licensees who have been in practice less than five years and will be unable to gain approval to be supervisors, these regulatory changes are likely to provide a net positive economic benefit to the citizens of the Commonwealth. If, on the other hand, more licensees are denied approval to supervise because of practice requirements than gain the approval under new employment status guidelines, these regulatory changes are likely to affect the citizens of the Commonwealth negatively.

Current regulation requires that funeral trainees participate in an 18-month apprentice-type training program. Trainees

currently must work at least 40 hours per week at the funeral home where they are supervised and are prohibited from attending school full time. The board proposes to allow trainees greater freedom to set the pace of their own training by measuring training in hours rather than months. Trainees will be required to complete 3000 hours of training in not less than 12 months and not more than 48 months. The board also proposes to change work week requirements and repeal schooling restrictions so that trainees may work between 20 and 60 hours per week and have the option of attending school full time while they work in the training program. These changes will benefit trainees who will be able to fit their training to the rest of their life rather than having to mold their life around training restrictions.

The board proposes to revise language in the current language that requires trainees to choose a new supervisor if their training program is interrupted because this language inadvertently prohibits trainees from resuming training with the same supervisor once his interrupted program resumes. There are many reasons that training might be interrupted that have nothing to do with the quality of the program or the willingness of the trainees to continue in it. This change will benefit trainees by allowing them the freedom to choose to continue, or not continue, training with a particular supervisor as they see fit.

Currently, resident trainees must register with the board and renew their registration each year by January 31st. Trainees may renew their registration up to 30 days after that date by paying the renewal fee plus a late fee. Currently, trainees who are more than 30 days late with their renewal must apply for reinstatement of their registration and pay all applicable fees. The board proposes to change the annual renewal date to March 31st of each year and to loosen the renewal standard considerably by allowing trainees to renew their registration late, with payment of the applicable late fee, up to one year from the date that it expired. This will benefit trainees who, for whatever reason, are not timely with their renewal paperwork and will bring policies for funeral trainees into harmony with the policies governing other regulants of the board.

Taken together, the proposed regulatory changes that govern the conduct and registration of trainees are likely to lower the cost of training and encourage more individuals to choose to enter the field of funeral services. In the long run, this should lower the cost of funeral services for the public, if we assume a static customer base, and should help to keep the cost of funeral services level, if we assume a rising customer base. The latter is a more logical assumption given that the average age of Virginia's population is increasing.

In order to meet its nongeneral fund budget mandate, the board proposes to add two new fees: \$25 for registration of supervisors who have previously not needed to be registered and \$170 for reinstatement of registration. Since the late renewal period is being extended, the board believes it is appropriate to differentiate between reinstatement fees and renewal fees and to make the reinstatement fee higher, \$170 rather than \$100, to discourage trainees from allowing their registration to lapse for more than a year. The board also proposes to increase the fee for late renewal from \$25 to \$35 and the fee to change supervisors from \$15 to \$25.

Businesses and entities affected. Currently 510 funeral homes are licensed and 185 funeral trainees are registered in the Commonwealth. The board does not know exactly how many funeral functionaries currently serve as supervisors but logically that number is probably less than or equal to 185. All of these entities, plus any future trainees or supervisors, will be affected by the proposed regulation.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The effect of the proposed regulation is uncertain since the regulatory changes that directly affect trainees will tend to increase employment for funeral functionaries, the regulatory changes that directly affect supervisors may either increase or decrease training opportunities for trainees and it is unknown which effect will dominate the other.

Effects on the use and value of private property. To the extent that funeral homes might be able to lower costs by having trainees working on their premises, regulatory action that limits funeral functionaries' ability to serve as supervisors will decrease profits for the funeral homes where they work.

Small businesses: costs and other effects. There are 350 funeral homes in the Commonwealth that qualify as small businesses. The board does not know if any of these funeral homes currently have funeral trainee programs but believes that most would not hold enough funerals per year to justify taking on trainees. The board believes, therefore, that the proposed regulation is likely to have minimal to no effect on these smaller funeral businesses.

Small businesses: alternative method that minimizes adverse impact. There are likely no alternate regulatory methods that would be less costly while still accomplishing the board's goals.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of

the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Funeral Directors and Embalmers concurs with the analysis of the Department of Planning and Budget for amendments to 18 VAC 65-40 related to amendments resulting from a periodic review of regulations.

Summary:

In order to provide more flexibility in the resident trainee program, the board proposes to allow the trainee to complete the required hours within a fewer number of months and to combine part-time employment as a trainee with part-time schooling or other employment. Other changes will add accountability for the supervision of the trainee by requiring the supervisor to have at least two years of practice experience before serving as a trainer and requiring specific training in cremation. The training site must have at least 50 funerals and 50 embalmings each year, but additional training sites may be used to complete the requirements for a traineeship. The board is also increasing the application fee and adding a fee for registration of supervision, but is allowing a trainee to reinstate for up to one year following expiration, rather than having to reapply. The annual renewal expiration is being changed for consistency with other occupations under the board from January to March.

18 VAC 65-40-10. Definitions.

In addition to words and terms defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Direct supervision" means that a licensed funeral service professional is present and on the premises of the facility.

~~"Full-time school attendance" means that the individual attending mortuary science school is enrolled in 12 or more semester hours of coursework per semester.~~

"Supervisor" means a licensed employee at the training site who has been approved by the board to provide supervision for the resident trainee.

"Training site" means the licensed funeral establishment which has agreed to serve as the location for resident training and has been approved by the board for the training.

18 VAC 65-40-40. Fees.

A. The following fees shall be paid as applicable for registration:

- | | |
|--|-------------|
| 1. Funeral service resident trainee registration, reinstatement or renewal | \$75; \$100 |
| 2. Late fee for renewal up to 30 days after expiration | \$25; \$35 |
| 3. Duplicate copy of trainee registration | \$25; |
| 4. Returned check | \$25; |

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5. Registration of supervisor	\$25
6. Change of supervisor	\$15; \$25
7. Reinstatement fee	\$170

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

18 VAC 65-40-90. Renewal of registration.

A. The resident trainee registration shall expire on ~~January~~ *March* 31 of each calendar year and may be renewed by submission of the renewal notice and prescribed fee.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration. No credit will be allowed for a traineeship period served under an expired registration.

C. The resident trainee is responsible for notifying the board of any changes in name, address, employment, or supervisor. Any notices shall be validly given when mailed to the address on record with the board.

18 VAC 65-40-110. Reinstatement of expired registration.

A. ~~A resident trainee whose registration has expired may be reinstated within one year following expiration by payment of the current renewal fee and the late renewal fee.~~

~~B. A resident trainee whose registration has been expired for more than one year shall apply for reinstatement by submission of a written application and payment of a reinstatement fee. The board may consider reinstatement of an expired registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable fees.~~

~~B. C.~~ When a registration is not reinstated within three years of its expiration date, a new application for registration shall be filed and a new training program begun.

18 VAC 65-40-130. Resident training.

A. The trainee program shall consist of at least ~~18 months~~ *3,000 hours* of resident training to be completed within no less than 12 months and no more than 48 months. For good cause shown, the board may grant an extension of time for completion of a resident traineeship.

~~B. An individual may hold an active traineeship registration for a maximum of 48 months from the date of initial registration for the traineeship program. The board, in its discretion, may grant an extension of the traineeship registration. The trainee shall be assigned a work schedule of not less than 20 hours nor more than 60 hours per week in order to receive credit for such training. For good cause shown, the board may waive the limitation on a resident trainee's work schedule.~~

C. A resident trainee shall not attend school full time while serving his traineeship shall receive training in all areas of funeral service.

18 VAC 65-40-160. Trainee work schedule. (Repealed.)

~~Every resident trainee shall be assigned a full time work schedule of at least 40 hours each week in order to obtain credit for such training. The trainee shall be required to receive training in all areas of funeral service. Additional and further hours may be at the discretion of the supervisor or may be a requirement of the facility.~~

18 VAC 65-40-220. Qualifications of training site.

The board shall approve only an establishment or two combined establishments to serve as the training site or sites which:

1. Have a full and unrestricted Virginia license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Have ~~35~~ *50* or more funerals and ~~35~~ *50* or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the resident trainee may seek approval for an additional training site.

18 VAC 65-40-250. Requirements for supervision.

A. Training shall be conducted under the direct supervision of a licensee or licensees approved by the board. *Credit shall only be allowed for training under direct supervision.*

B. The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who have a full and unrestricted Virginia funeral license, *have at least two consecutive years in practice* and are employed full time in *or under contract with* the establishment where training occurs.

C. A supervisor licensed as an embalmer or a funeral director shall provide supervision only in the areas of funeral practice for which he is licensed.

D. Failure to register as a supervisor may subject the licensee to disciplinary action by the board.

E. If a supervisor is unable or unwilling to continue providing supervision, the resident trainee shall obtain a new supervisor. Credit for training shall resume when a new supervisor is approved by the board and the trainee has paid the prescribed fee for the change of supervisor.

18 VAC 65-40-300. Interruption and reinstatement. (Repealed.)

~~A. If the program is interrupted, the trainee shall obtain a new supervisor and submit a new application for approval.~~

~~B. Credit shall only be allowed for training under direct supervision. Credit for training shall resume when a new supervisor is approved by the board and the applicant has been reinstated.~~

18 VAC 65-40-320. Reports to the board: ~~six-month report;~~ ~~partial report.~~

A. The trainee, the supervisor or supervisors, and the establishment shall submit a written report to the board at the end of every ~~six months~~ 1,000 hours of training. The report shall:

1. Specify the period of time in which the 1,000 hours has been completed and verify that the trainee has actually served in the required capacity during the preceding ~~six months~~ period; and
2. Be received in the board office no later than 10 days following the end of the ~~six-month period~~ completion of 1,000 hours. Late reports may result in additional time being added to the traineeship.

B. If the training program is terminated or interrupted prior to completion of a ~~six-month period~~ 1,000 hours or if the trainee is changing supervisors or training sites, the trainee and the supervisor shall submit a partial report to the board with a written explanation of the cause of program termination or interruption or of the change in training or supervision.

1. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given ~~in increments of one month~~ for the number of hours of training completed.
2. Partial reports shall be received in the board office no later than 10 days after the interruption or termination of the trainee program or after the change in supervisors or training sites. Credit may be deducted for late reports.

18 VAC 65-40-340. Supervisors' responsibilities.

A. The supervisor shall provide the trainee with all applicable laws and regulations or sections of regulations relating to the funeral industry.

B. The supervisor shall provide the trainee with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.

C. The supervisor shall provide the trainee with instruction in all aspects of funeral services and shall allow the trainee under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals.

D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the trainee under direct supervision to perform a minimum of 25 embalmings.

E. The supervisor shall provide the trainee with instruction in making preneed funeral arrangements and instruction on the laws and regulations pertaining to preneed funeral contracts and disclosures.

F. The supervisor shall provide instruction on cremation and on the laws and regulations pertaining to cremation.

G. If a training site does not offer preneed funeral planning or cremation services, the supervisor shall arrange for such training at another licensed funeral establishment that does.

VA.R. Doc. Nos. R05-254 and R06-28; Filed May 30, 2006, 3:35 p.m.

BOARD OF NURSING

Title of Regulation: **18 VAC 90-60. Regulations Governing the Registration of Medication Aides (adding 18 VAC 90-60-10 through 18 VAC 90-60-120).**

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public Hearing Date: July 18, 2006 - 11:30 a.m.

Public comments may be submitted until August 25, 2006.
(See Calendar of Events section for additional information)

Agency Contact: Jay P. Douglas, R.N., Executive Director, Department of Health Professions, Alcoa Building, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, or e-mail jay.douglas@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system.

Chapters 610 and 924 of the 2005 Acts of Assembly require the Board of Nursing to promulgate regulations for the registration and regulation of medication aides who administer medications in assisted living facilities.

The specific authorization to promulgate regulations for implementation of registration of medication aides is found in § 54.1-3005 of the Nurse Practice Act.

Purpose: Pursuant to Chapters 610 and 924 of the 2005 Acts of the Assembly, the Board of Nursing has a mandate to promulgate regulations for registration of medication aides who administer drugs to residents of assisted living facilities, for standards of conduct, and for approval of training programs in medication administration. Section 54.1-3042 of the Code of Virginia was added to require every applicant for registration as a medication aide to meet the criteria for registration including successful completion of an education or training program approved by the board, successful completion of a competency evaluation, payment of the required application fee, and submission of written evidence that the applicant has not committed any act that would be grounds for discipline or denial of registration. In addition, the rules provide that every applicant for registration as a medication aide complete ongoing training related to the administration of medications.

With the introduction of HB 2512 and SB 1183, proponents of legislation for tighter controls over the assisted living facilities, including registration of medication aides, argued that the current regulatory scheme was insufficient to ensure the health, safety and welfare of residents who are increasingly becoming a more frail population in need to a higher level of competency for caregivers. The Drug Control Act allows medication aides to "administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services" but specifies that only a licensed nurse can administer medications to patients of nursing homes. In the current healthcare environment, residents of assisted living facilities often have similar characteristics to patients in nursing homes, so

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additional competencies and accountability are necessary through registration of medication aides by the board.

The primary challenges and issues addressed in the development and implementation of the regulation were to write rules that (i) recognize the training and experience of current medication aides who are administering drugs after completion of the approved training program now in effect, but also ensure competency and consistency with new requirements and (ii) maintain the fiscal viability of a competency evaluation and a regulatory/disciplinary program under the Board of Nursing, but also establish fees that are reasonable and not prohibitive. In addition, the board has specified that an approved competency evaluation or written test will be required for registration. But before the effective date of the regulations, the board has the challenge of identifying or developing a competency evaluation or examination that is defensible and assures minimal competency since there is no such national standard or credential available for this profession.

The goal was to develop regulations that provide some assurance that the aide is sufficiently trained to handle the increasing complexity of medications being administered in an assisted living facility and to adequately protect and care for the residents of that facility.

Substance: The specifics of the new chapter for registration of medication aides were guided by the provisions of law, which require the board to "approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation," to register any medication aide "who administers drugs that would otherwise be self-administered to residents in an assisted living facility licensed by the Department of Social Services" and to require an application, a fee and written evidence that the applicant has completed a competency evaluation, "has not committed any act that would be grounds for discipline or denial of registration under this article; and has met the criteria for registration including successful completion of an education or training program approved by the Board." In addition, the Code of Virginia requires that medication aides complete ongoing training related to the administration of medications, as specified in regulation to be adopted by the board.

The regulations set out requirements for the aide to wear identification, establish fees, establish the requirements and process for establishing and maintaining a medication aide training program, set out the criteria for instructors in an approved medication aide training program, establish the requirements for the program curriculum, and other program requirements, set out the requirements for a provider who is planning to close a program, set out the requirements for initial registration as a medication aide, establish requirements for renewal or reinstatement of registration, establish the standards of practice, and set out the grounds for disciplinary actions for medication aides.

Issues: The primary advantage to the public is the assurance that aides who administer medications in assisted living facilities will be adequately trained and deemed competent by passage of an examination. In addition, there will be some accountability for the work and behaviors of aides who must

practice under standards set by the board or face possible disciplinary action. Without the statutory requirement for registration to administer medications, persons who engaged in a pattern of medication errors or who abused a resident could be fired by an employer but could be rehired by another facility. There are no disadvantages of the regulations unless the requirement to be registered results in a shortage of persons who want to work as medication aides, which should not be a problem for facilities that will assist with the cost of training and registering their aides.

The registration of medication aides creates a large new program under the Board of Nursing and the department, requiring new expenditures and new personnel for upcoming budgets. To the extent those positions are approved and can be funded with revenue generated by fees from medication aides and training programs, there should be no disadvantages to the agency or the Commonwealth. To the extent funding or new positions do not become available, the management of a registration program, approval of training programs, investigations and disciplinary proceedings for medication aides could not occur in a timely manner and could negatively affect other programs, such as regulation of certified nurse aides.

Public Participation: In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping and other administrative costs; (ii) probable effect of the regulation on affected small businesses; and (iii) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, e-mail or fax to Elaine Yeatts, 6603 W. Broad Street, Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114, or elaine.yeatts@dhp.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. In response to legislation passed during the 2005 General Assembly session (Chapters 610 and 924, 2005 Acts of Assembly), the Board of Nursing proposes to promulgate these Regulations Governing the Registration of Medication Aides that will specify training standards, registration requirements and disciplinary action grounds and practices for medication aides who work in assisted living facilities.

Result of analysis. The benefits likely exceed the costs for this proposed regulatory change.

Estimated economic impact. Up until the 2005 General Assembly Session, all medication aides have worked solely under the mandates and restrictions enumerated in the Drug Control Act (§ 54.1-3408). This act allows individuals who have completed a Board of Nursing approved training program to administer drugs to residents of assisted living facilities, facilities licensed or certified by the Mental Health, Mental Retardation and Substance Abuse Services Board, facilities approved by the Department of Juvenile Justice and residents of the Center for the Blind and Vision Impaired, so long as certain conditions are met. Medication aides may only administer medicines in accordance with a physician's instructions and may only administer medicines that would, in a home setting, be self-administered. This means that medication aides may administer oral and topical medications, aerosolized medications and insulin injections but they may not administer medicines that require intramuscular or intravenous injection; medication aides may not administer any medications in medical settings other than those specifically enumerated in the Drug Control Act.

Currently, medication aides must successfully complete a Board of Nursing approved 32-hour training course that follows a curriculum developed by the Department of Social Services. The current training regimen primarily consists of classroom training. The Department of Health Professions (DHP) reports that current training costs can be as little as \$50 or as much as several hundred dollars per medication aide and that the cost of training is usually borne by either the facility for which the medication aide will work or by the pharmacy that serves that facility.

Chapters 610 and 924 of the 2005 Acts of Assembly require, and this proposed regulation implements, a training and registration regimen for medication aides working in assisted living facilities. The Board of Nursing proposes to expand training requirements for registered medication aides to include 40 hours of classroom training, 20 hours of practical training and an additional eight hours of training on insulin administration and to require a competency exam after this training. Medication aides who currently work at assisted living facilities will not have to meet these training requirements but will have to attend an eight-hour refresher course and pass the competency exam before they are able to register.

Although the text of Chapters 610 and 924 does not explicitly state that current training requirements are inadequate to prepare medication aides for working in assisted living facilities, the fact that they, and not other medication aides, are the subject of new legislative requirements strongly implies this. DHP reports that medication aides in assisted living facilities work with an increasingly older and frailer population that comes ever asymptotically closer to mirroring the population of nursing homes; it is, therefore, appropriate to require greater competency and accountability from these medication aides than from others. DHP reports that the extra hours of training that medication aides will receive will cover pharmacology and drug interactions with an emphasis on handling patients who must take many medications each day.

Residents of assisted living facilities will certainly benefit from this regulatory change if the extra training medication aides receive reduces the number of illnesses or deaths that can be

attributed to medication not being administered or being administered improperly. The general public will likely also benefit from the proposed regulation if it reduces the problem of improperly administered medication that may contribute to Medicaid and Medicare patients needing more invasive and expensive care.

DHP reports that the training that the proposed regulation requires will cost approximately \$155 per potential registered medication aide. DHP also expects that, once extra training materials are added, the medication aide training manual will cost several dollars more than its current price of \$10. Registration for medication aides will cost \$75 initially and the biannual registration renewal fee is \$50. The Board of Nursing has not yet developed or contracted for the required competency exam but estimates that fees for this exam will be approximately the same as those paid for the nursing aide exam. Nursing aides pay \$80 combined to take both the written and skills portions of that exam. The totality of the training and registration costs that will be incurred either by the medication aide, by the assisted living facility for which the medication aide intends to work or by the pharmacy that serves that assisted living facility will certainly be greater under the proposed regulation; this greater cost may be offset by savings realized because of a possible reduction in the number of medication errors. To the extent that more training is correlated with greater competency, registered medication aides may also be able to command a higher salary.

The Board of Nursing also proposes to impose a \$500 fee for training program approval. This fee may reduce the number of training program past what it would be if there were no fee for program approval, but it will also offset the cost of program review that DHP will incur.

Businesses and entities affected. To date, approximately 35,000 individuals have completed the training mandated for medication aides by the Drug Control Act; DHP estimates that between 5,000 and 15,000 of these individuals will need to be registered under the requirements of the proposed regulation. There are 625 assisted living facilities licensed by the Department of Social Services. All of these individuals and entities, plus all entities that choose to start approved training programs, are affected by this regulatory change.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The impact of this regulation on employment for medication aides is uncertain. Increasing training costs will tend to reduce employment opportunities for medication aides, albeit only minimally given the modest nature of the cost increase. Any negative impact increased training costs may have on employment will be mitigated if increased training results in a reduction of costs associated with medication errors.

Effects on the use and value of private property. To the extent that having better trained medication aides makes assisted living facilities more attractive to current and potential residents, the value of assisted living facilities will increase.

Small businesses: costs and other effects. The majority of the cost associated with this regulation will likely be borne by

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small businesses. The benefits of the regulation will likely, however, exceed the costs for these small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation likely minimizes the adverse impact on the regulated community given the constraints mandated by the Legislature

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Nursing concurs with the analysis of the Department of Planning and Budget on proposed new regulations for 18 VAC 90-60, Regulations Governing the Registration of Medication Aides.

Summary:

Pursuant to Chapters 610 and 924 of the 2005 Acts of the Assembly, the proposed regulations establish criteria for registration of medication aides who administer drugs to residents of assisted living facilities, for approval of training programs in medication administration, and for standards of practice and grounds for disciplinary action. Requirements for board-approved training programs include qualifications for instructors, hours of classroom instruction and practical skills training, content of the curriculum and maintenance of certain records.

To be registered as a medication aide, an applicant must document completion of an approved training program and passage of a competency evaluation as determined by the board. Currently practicing medication aides will not be required to complete an approved training program but will be required to take an eight-hour refresher course and pass the competency examination. Requirements for renewal and reinstatement are set, including four hours of in-service training each year. Fees are established for program

approval, application, and renewal as necessary to provide funding for the board to administer the regulatory program.

CHAPTER 60. REGULATIONS GOVERNING THE REGISTRATION OF MEDICATION AIDES.

PART I. GENERAL PROVISIONS.

18 VAC 90-60-10. Definitions.

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

"Board" means the Virginia Board of Nursing.

"Client" means a person receiving the services of a medication aide in an assisted living facility.

"Committee" means the Special Conference Committee, comprised of not less than two members of the board in accordance with § 2.2-4019 of the Code of Virginia.

"Direct client care" means assisting residents in performance of personal care and activities of daily living.

"Medication" means drugs as scheduled in the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia).

18 VAC 90-60-20. Identification; accuracy of records.

A. Any person regulated by this chapter shall, while on duty, wear identification that is clearly visible to the client and that indicates the person's first and last name and the appropriate title issued to such person by the board under which he is practicing in that setting.

B. A medication aide who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate certificate shall be issued by the board upon receipt of such evidence.

C. A medication aide shall maintain a record of his current mailing address with the board, and any change of address shall be submitted in writing to the board within 30 days of such change. All notices required by law and by this chapter to be mailed by the board to any registrant shall be validly given when mailed to the latest address on file with the board.

18 VAC 90-60-30. Fees.

A. The following fees shall apply:

<i>1. Application for program approval</i>	<i>\$500</i>
<i>2. Application for registration as a medication aide</i>	<i>\$75</i>
<i>3. Biennial renewal for medication aide</i>	<i>\$50</i>
<i>4. Late renewal</i>	<i>\$15</i>
<i>5. Reinstatement of registration</i>	<i>\$90</i>
<i>6. Returned check</i>	<i>\$25</i>
<i>7. Duplicate registration</i>	<i>\$5</i>
<i>8. Reinstatement following suspension, mandatory suspension or revocation</i>	<i>\$120</i>

B. Fees shall not be refunded once submitted.

C. The fee for the competency evaluation shall be paid directly to the examination service contracted by the board for its administration.

PART II.

MEDICATION AIDE TRAINING PROGRAMS.

18 VAC 90-60-40. Establishing and maintaining a medication aide training program.

A. Establishing a medication aide training program.

1. A program provider wishing to establish a medication aide training program shall submit a completed application and pay the prescribed fee to the board at least 90 days in advance of the first expected offering of the program.

2. The application shall provide evidence of the program's compliance with requirements as set forth in this part.

3. The committee shall, in accordance with § 2.2-4019 of the Code of Virginia, receive and review the application and shall make a recommendation to the board to grant or deny approval.

4. If the committee's recommendation is to deny approval, no further action will be required of the board unless the program requests a hearing before the board or a panel thereof in accordance with § 2.2-4020 and subdivision 11 of § 54.1-2400 of the Code of Virginia.

B. Maintaining an approved medication aide training program. To maintain approval, the program shall:

1. Continue to comply with requirements as set forth in this part.

2. Document that the cumulative passing rate for the program's first-time test takers taking the competency evaluation required for registration over the past two years is not less than 80%.

3. Report all substantive changes within 10 days of the change to the board to include, but not be limited to, a change in the program instructors, curriculum or program location.

4. Cooperate with any unannounced visits to the program conducted by board representatives for the purpose of ensuring compliance with requirements for approval or in response to complaints about the program.

5. Provide documentation that each student enrolled in such program has been given a copy of applicable Virginia law and regulation for the registration and practice of medication aides.

6. Provide each student with a certificate of completion.

18 VAC 90-60-50. Requirements for instructional personnel.

A. Primary instructors in an approved program shall be licensed registered nurses or pharmacists who, consistent with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia), are authorized to administer, prescribe

or dispense drugs and have at least three years of experience in such practice.

B. Licensed practical nurses may be used as secondary instructors for the supervised skills practice hours of the program.

C. To be qualified as an instructor, a nurse or a pharmacist shall:

1. Hold a current, active, unrestricted license or a multistate licensure privilege; and

2. Complete a course designed to prepare the instructor to teach the medication aide curriculum as it relates to clients in assisted living facilities. The course shall include adult learning principles and evaluation strategies and shall be completed prior to teaching a course in a medication aide program.

D. Each instructor in an approved program shall:

1. Participate in the planning of each learning experience and be responsible for the teaching and evaluation of students;

2. Ensure that course objectives are accomplished and the curriculum content has been completed; and

3. Maintain student records as required by 18 VAC 90-60-70 B.

18 VAC 90-60-60. Requirements for the program curriculum.

A. Prerequisite for the program. A student seeking enrollment in a medication aide training program shall have successfully completed the direct care staff training required by the Department of Social Services for employment in an assisted living facility or an approved nurse aide education program.

B. Hours of instruction. An approved program shall consist of a minimum of 68 hours of student instruction and training to include:

1. At least 40 hours of classroom or didactic instruction over and above any facility orientation program or training in direct client care provided by the facility;

2. At least 20 hours of supervised skills practice in medication administration; and

3. An eight-hour module in facilitating client self-administration or assisting with the administration of insulin to include instruction and skills practice in the administration of insulin as specified in the board-approved curriculum.

C. Content of the curriculum. An approved program shall use the curriculum developed and provided by the board, which shall, at a minimum, include the following topics:

1. Preparing for safe administration of medications to clients in assisted living facilities;

2. Maintaining aseptic conditions;

3. Understanding of basic pharmacology;

4. Facilitating client self-administration or assisting with medication administration;

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5. Following proper procedure for preparing, administering, and maintaining medications; and

6. Following appropriate procedures for documentation and reporting to the licensed healthcare professional on duty at the facility or to the client's prescriber.

D. In addition to the training curriculum, the program shall provide one or more four-hour modules that can be used by facilities as refresher courses or by medication aides to satisfy requirements for continuing education.

18 VAC 90-60-70. Other program requirements.

A. Ratio. An approved training program shall maintain a ratio of no more than 10 students for one instructor for the 20 hours of supervised skills practice as required by 18 VAC 90-60-60 B.

B. Records.

1. Each medication aide training education program shall develop and maintain an individual record of major skills taught and the date of performance by the student. At the completion of the program, the medication aide must receive a copy of this record and a certificate of completion from the program.

2. A record of the reports of graduates' performance on the approved competency evaluation program shall be maintained.

3. A record that documents the disposition of complaints against the program shall be maintained.

4. All records required by this section shall be maintained for at least five years.

C. Student identification. The medication aide students shall wear identification that clearly distinguishes them as a "medication aide student" while engaged in practical skills training under direct supervision by an instructor.

18 VAC 90-60-80. Requirements for closing of a program.

When a medication aide training program closes, the program provider shall:

1. Notify the board of the date of closing following completion of the last program for which students are already enrolled.

2. Submit to the board a list of all persons who have completed the program with the date of completion of each.

PART III.

REGISTRATION OF MEDICATION AIDES.

18 VAC 90-60-90. Requirements for initial registration.

A. To be registered as a medication aide, an applicant shall:

1. Provide documentation of successful completion of a staff training program in direct client care approved by the Department of Social Services or of an approved nurse aide education program;

2. Provide documentation of successful completion of one of the following:

a. A medication aide training program approved by the board in accordance with this chapter;

b. A nursing education program preparing for registered nurse licensure or practical nurse licensure; or

c. An eight-hour refresher course preparing a person to take the competency evaluations required for registration and one year of experience working as a medication aide in an assisted living facility. The one year of experience as a medication aide shall be immediately prior to applying for registration and may only be accepted as evidence of training until (one year following the effective date of this chapter);

3. Submit the required application and fee as prescribed by the board;

4. Disclose whether there are grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia; and

5. Provide documentation of successful completion of competency evaluations consisting of:

a. A clinical practicum that evaluates minimal competency in the skills specified by the board. The clinical practicum shall be a one-on-one evaluation with a registered nurse, a licensed practical nurse or a pharmacist with experience in medications in long term care; and

b. A written evaluation as specified by the board with a passing score determined by the board.

B. An applicant who fails to take the board-approved competency evaluation within one year of completion of the training or who has failed the evaluation in three attempts shall reenroll and successfully complete another approved medication aide training program.

18 VAC 90-60-100. Renewal or reinstatement of registration.

A. Renewal of registration.

1. Registered medication aides born in even-numbered years shall renew by the last day of the birth month in even-numbered years. Registrants born in odd-numbered years shall renew by the last day of the birth month in odd-numbered years.

2. The medication aide shall complete the application and submit it with the required fee and an attestation that he has completed continuing education as required by subsection B of this section.

3. Failure to receive the application for renewal shall not relieve the medication aide of the responsibility for renewing his registration by the expiration date.

4. The registration shall automatically lapse if the medication aide fails to renew by the expiration date.

5. Any person administering medications in an assisted living facility during the time a registration has lapsed shall be considered an illegal practitioner and shall be subject to prosecution under the provisions of § 54.1-3008 of the Code of Virginia.

B. Continuing education required for renewal.

1. In addition to hours of continuing education in direct client care required for employment in an assisted living facility, a medication aide shall have four hours each year of population-specific training in medication administration in the assisted living facility in which the aide is employed or a refresher course in medication administration offered by an approved program.

2. A medication aide shall maintain documentation of continuing education for a period of four years following the renewal period for which the records apply.

3. The board shall periodically conduct a random audit of at least 1.0% of its registrants to determine compliance. A medication aide selected for audit shall provide documentation as evidence of compliance within 30 days of receiving notification of the audit.

4. The board may grant an extension for compliance with continuing education requirements for up to one year, for good cause shown, upon a written request from the registrant prior to the renewal deadline.

C. Reinstatement of certification.

1. An individual whose registration has lapsed for less than one renewal cycle may renew by payment of the renewal fee and late fee and attestation that he has completed all required continuing education for the period since his last renewal.

2. An individual whose registration has lapsed for more than two years shall:

a. Apply for reinstatement of registration by submission of a completed application and fee;

b. Provide evidence of completion of all required continuing education for the period since his last renewal, not to exceed 16 hours of training in medication administration;

c. Retake the written and practical competency evaluation as required by the board; and

d. Attest that there are no grounds for denial of registration as specified in § 54.1-3007 of the Code of Virginia.

18 VAC 90-60-110. Standards of practice.

A. A medication aide shall:

1. Document and report all medication errors and adverse reactions immediately to the licensed healthcare professional in the facility or to the client's prescriber;

2. Give all medications in accordance with the prescriber's orders and instructions for dosage and time of administration and document such administration in the client's record; and

3. Document and report any information giving reason to suspect the abuse, neglect or exploitation of clients immediately to the licensed healthcare professional in the facility or to the facility administrator.

B. A medication aide shall not:

1. Transmit verbal orders to a pharmacy;

2. Make an assessment of a client or deviate from the medication regime ordered by the prescriber;

3. Mix, dilute or reconstitute two or more drug products, with the exception of insulin; or

4. Administer by intramuscular or intravenous routes or medications via a nasogastric or percutaneous endoscopic gastric tube.

18 VAC 90-60-120. Disciplinary provisions for medication aides.

The board has the authority to deny, revoke or suspend a registration issued, or to otherwise discipline a registrant upon proof that he has violated any of the provisions of § 54.1-3007 of the Code of Virginia. For the purpose of establishing allegations to be included in the notice of hearing, the board has adopted the following definitions:

1. Fraud or deceit in order to procure or maintain a registration shall mean, but shall not be limited to:

a. Filing false credentials;

b. Falsely representing facts on an application for initial registration, reinstatement or renewal of a registration; or

c. Giving or receiving assistance in taking the competency evaluation.

2. Unprofessional conduct shall mean, but shall not be limited to:

a. Performing acts beyond those authorized by the Code of Virginia and this chapter for practice as a medication aide;

b. Assuming duties and responsibilities within the practice of a medication aide without adequate training or when competency has not been maintained;

c. Obtaining supplies, equipment or drugs for personal or other unauthorized use;

d. Falsifying or otherwise altering client or drug records relating to administration of medication;

e. Falsifying or otherwise altering employer records, including falsely representing facts on a job application or other employment-related documents;

f. Abusing, neglecting or abandoning clients;

g. Having been denied a license, certificate or registration having had a license, certificate or registration issued by the board revoked or suspended;

h. Giving to or accepting from a client property or money for any reason other than fee for service or a nominal token of appreciation;

i. Obtaining money or property of a client by fraud, misrepresentation or duress;

j. Entering into a relationship with a client that constitutes a professional boundary violation in which the nurse aide

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uses his professional position to take advantage of a client's vulnerability, to include but not limited to actions that result in personal gain at the expense of the client, an inappropriate personal involvement or sexual conduct with a client;

k. Violating state laws relating to the privacy of client information, including but not limited to § 32.1-127.1:03 of the Code of Virginia;

l. Failing to follow provisions of the Medication Management Plan for the assisted living facility in which the aide is employed; or

m. Violating standards of practice as set forth in this section.

3. For the purposes of interpreting provisions of subdivision 5 of § 54.1-3007 of the Code of Virginia, a pattern of medication errors may constitute practice that presents a danger to the health and welfare of clients or to the public.

VA.R. Doc. No. R05-241; Filed June 7, 2006, 9:47 a.m.

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TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt 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: 20 VAC 5-413. Rules Governing Disconnection of Local Exchange Telephone Service (amending 20 VAC 5-413-10, 20 VAC 5-413-20, 20 VAC 5-413-30, and 20 VAC 5-413-40; adding 20 VAC 5-413-5, 20 VAC 5-413-25, 20 VAC 5-413-35, and 20 VAC 5-413-50).

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

Public Hearing Date: Upon request -- Public comments may be submitted until July 26, 2006.

Agency Contact: Katie Cummings, Deputy Director, State Corporation Commission, Division of Communications, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9101, FAX (804) 371-9069, or e-mail katie.cummings@scc.virginia.gov.

Summary:

The proposed regulations contain certain provisions codified originally at 20 VAC 5-400-151 and later recodified at 20 VAC 5-413. The regulations set forth the requirements and circumstances under which telephone companies may disconnect their customers' local exchange and long-distance services for nonpayment. The revised regulations are being proposed to recognize and incorporate changes

in the telecommunications marketplace since the regulations were originally approved on May 10, 1999, in Case No. PUC-1997-00113.

The proposed regulations reflect a number of changes suggested by parties who provided input and comments in a previous docket, Case No. PUC-2004-00162, "Application of Virginia Telecommunications Industry Association, for modifications to rules governing disconnection of local exchange telephone service." The proposed regulations reflect incorporation of definitions, certain clarifications or modifications, and inclusion of rules and procedures the staff of the Division of Communications believed were required to provide due process and to assure customer notification prior to disconnection.

Proposed revisions to the regulations include identification and treatment of bundled services, requirements on customer notification before disconnection of service, resolution of customer billing disputes, and a customer's responsibility to pay for certain identified fees and surcharges to prevent disconnection of local exchange service.

AT RICHMOND, JUNE 6, 2006

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC-2006-00072

Ex Parte: Amendment of Rules
Governing Disconnection of Local
Exchange Telephone Service

ORDER PRESCRIBING NOTICE AND INVITING COMMENTS OR REQUESTS FOR HEARING

By Order on Reconsideration entered May 10, 1999, in Case No. PUC-1997-00113, the State Corporation Commission ("Commission") adopted Rules Governing Disconnection of Local Exchange Telephone Service ("DNP Rules"),¹ codified originally at 20 VAC 5-400-151 and recodified at 20 VAC 5-413-10 et seq. as a result of the Commission's Final Order in Case No. PUC-2001-00122.

On December 17, 2004, the Virginia Telecommunications Industry Association ("VTIA") filed an Application with the Commission requesting modification of the DNP Rules. The VTIA requested that the DNP Rules be revised to allow toll blocking for non-payment of long distance services, to exempt bundles or packages of services from the DNP Rules, and to permit disconnection of local exchange services and bundled services for failure to pay certain surcharges and fees associated with those services.

That Application was concluded by Final Order entered February 21, 2006.² That Order directed the Division of Communications ("Staff") to prepare proposed rules to amend the existing rules based upon certain findings identified in the

¹ DNP means disconnection for nonpayment.

² See Case No. PUC-2004-00162, Application of Virginia Telecommunications Industry Association, For modifications to rules governing disconnection of local exchange telephone service, 20 VAC 5-413-10 et seq.

Order, but also allowed the Staff to include additional definitions and rules that the Staff believed were warranted.

In carrying out those directives, the Staff met and conferred with interested parties who had participated in Case No. PUC-2004-00162; i.e., the VTIA (including representatives from some of VTIA's member companies), the Office of the Attorney General Division of Consumer Counsel ("Consumer Counsel"), and the Virginia Citizens Consumer Council ("VCCC"). The Staff, on April 19, 2006, provided proposed DNP Rules to the Commission and also furnished a copy to the VTIA, Consumer Counsel, and the VCCC.

The Commission will now consider the proposed DNP Rules, which appear in Attachment A, appended to this Order. In addition, the Commission seeks comment from members of the telecommunications industry, other interested parties, and the public on any matter pertinent to the proposed DNP Rules.

NOW THE COMMISSION, pursuant to § 12.1-13 of the Code of Virginia and 5 VAC 5-20-100 of the Commission's Rules of Practice and Procedure, finds that interested parties should be permitted to comment on, propose modifications or supplements to, or request a hearing on the proposed amendment of the DNP Rules (20 VAC 5-413-10 et seq.), which the Commission now considers.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case No. PUC-2006-00072.

(2) The Commission's Division of Information Resources shall forward the proposed Rules Governing Disconnection of Local Exchange Telephone Service (Chapter 413), Attachment A herein, to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(3) On or before June 26, 2006, the Commission's Division of Information Resources shall make a downloadable version of the proposed Rules Governing Disconnection of Local Exchange Telephone Service, Attachment A, available for access by the public at the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. The Clerk of the Commission shall make a copy of the proposed Rules Governing Disconnection of Local Exchange Telephone Service available for public inspection and provide a copy, free of charge, in response to any written request for one.

(4) Interested persons wishing to comment on, propose modifications or supplements to, or request a hearing on the proposed Rules Governing Disconnection of Local Exchange Telephone Service or upon other matters addressed in this Order, consistent with the findings above, shall file an original and fifteen (15) copies of such comments, proposals, or requests with the Clerk of the Commission, P.O. Box 2118, Richmond, Virginia 23218, on or before July 26, 2006, making reference to Case No. PUC-2006-00072. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

(5) On or before June 26, 2006, the Commission's Division of Information Resources shall publish the following notice as

classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING TO ADOPT AMENDED RULES GOVERNING DISCONNECTION OF LOCAL EXCHANGE TELEPHONE SERVICE FOR NONPAYMENT

CASE NO. PUC-2006-00072

By Order dated May 10, 1999, the State Corporation Commission ("Commission") adopted Rules Governing Disconnection of Local Exchange Telephone Service (20 VAC 5-400-151) ("DNP Rules"). These DNP Rules were later recodified at 20 VAC 5-413-10 et seq.

The Commission's Division of Communications ("Staff") has prepared revised DNP Rules on the directive of the Commission, which this Commission is considering for replacement of the current DNP Rules.

Interested parties may obtain a copy of the proposed DNP Rules by visiting the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>, or by requesting a copy from the Clerk of the Commission. The Clerk's office will provide a copy of the proposed DNP Rules to any interested party, free of charge, in response to any written request for one.

Any person desiring to comment in writing or request a hearing on the proposed DNP Rules may do so by directing such comments or requests for hearing on or before July 26, 2006, to the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website, <http://www.scc.virginia.gov/caseinfo.htm>. Comments and requests for hearing must refer to Case No. PUC-2006-00072. Requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments.

VIRGINIA STATE CORPORATION COMMISSION

(6) On or before August 25, 2006, the Staff may file comments on any comments filed by any interested parties.

(7) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; Richard D. Gary, Esquire, Counsel for Virginia Telecommunications Industry Association, Hunton & Williams LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; Irene Leech, President, Virginia Citizens Consumer Council, 4220 North Fork Road, Elliston, Virginia 24087; all local exchange carriers certificated in Virginia as set out in Appendix A; all interexchange carriers certificated in Virginia as set out in Appendix B; and the

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Commission's Office of General Counsel and Division of Communications.

20 VAC 5-413-5. Definitions.

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

"Ancillary services" mean a service or services that are supplemental or incidental to the provision of basic telephone service including, but not limited to, directory assistance, directory listings, voice mail, vertical services, or detailed billing.

"Basic bundle" means a bundled service that includes basic telephone service and additional service components in the designated group of services. The additional service components of the basic bundle are limited to vertical and ancillary services, interstate and intrastate interexchange services provided by the LEC or an affiliated carrier of the LEC, or any combination of these additional components.

"Basic telephone service" means the customer's dial tone line and local usage. Local usage can be purchased on a flat rate, measured, or per message basis, or some combination thereof.

"Bona fide dispute" means (i) a dispute on an identified charge or charges between the LEC and its customer that is being investigated and is pending a determination by the LEC or (ii) a dispute on an identified charge or charges being investigated and pending disposition by the commission.

"Bundled service" means a designated group of services or products offered to customers at a package or set price. A bundled service may consist of regulated and nonregulated services or products.

"Commission" means the State Corporation Commission.

"Customer" means any person, firm, partnership, corporation, or lawful entity that purchases local exchange telecommunications services.

"Dial tone" means the audible sound that a customer hears when the telephone is taken off hook. The sound advises a customer that the telephone line is active and available for use.

"Disconnect" means the LEC's intentional cessation of service or services to a customer.

"Fee or surcharge" means an additional charge appearing on the customer's bill separate from the rates and charges for a service or product. These charges may be specifically authorized by a regulatory or legislative body, or in other instances, may be initiated by a LEC or other carrier.

"Interexchange carrier" (IXC) means a carrier that offers interexchange long distance telecommunications services.

"Interexchange service" means interexchange telephone service as defined by § 56-1 of the Code of Virginia.

"Interstate" means service that originates in one state and terminates in another state.

"Intrastate" means service that originates and terminates within a state.

"Local exchange carrier" (LEC) means a certificated provider of local exchange services.

"Local exchange service" or "local exchange services" for purposes of this chapter means the offerings provided by a LEC certificated pursuant to Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 of the Code of Virginia.

"Selective toll blocking" means the ability to block calls from a specific customer's telephone line or lines from being routed to, or carried by, a specific IXC.

"Subscriber line charge" (SLC) means a per line charge allowed by the Federal Communications Commission appearing on a customer's local telephone bill intended to recover a portion of a LEC's interstate costs. A SLC or comparable charge may be identified on the bill by other names, such as access line charge or end user common line charge.

"Telecommunications relay service" (TRS) means telecommunications relay service as defined by § 56-484.4 of the Code of Virginia or successor statute.

"Universal service fund" (USF) means a federal government program, the goal of which is to help make telephone service affordable and available to all households. The USF provides support for low income households, high cost (i.e. rural) LECs, schools and libraries, and rural healthcare. The USF is funded by assessments on telecommunications carriers, many of which charge their customers a fee to recover the assessments.

"Vertical services" means optional, advanced calling features associated with a customer's basic telephone service such as, but not limited to, the ability to identify callers and manage multiple calls.

20 VAC 5-413-10. Disconnection for failure to pay.

A. A ~~Local Exchange Carrier ("LEC")~~ may terminate disconnect local exchange services, including basic telephone service ~~only~~ for a customer's failure to pay fully for ~~noncompetitive such local exchange services billed on behalf of the LEC or basic telephone service when the local exchange those services are found in tariffs the LEC's tariff on file with the State Corporation~~ commission and there is no bona fide dispute concerning the those services. ~~A LEC may not terminate local exchange service for a customer's failure to pay for the LEC's intraLATA toll services.~~

B. A LEC may disconnect a bundled service for a customer's failure to pay fully for the bundled service when the bundled service is considered a basic bundle and the description and full price of the basic bundle are found in the LEC's tariff on file with the commission, and there is no bona fide dispute concerning the basic bundle.

C. A LEC may disconnect local exchange services, including basic telephone service, or a basic bundle identified in subsections A and B of this section, for a customer's failure to pay the SLC, USF, or TRS fees or surcharges billed by the LEC. If billed on behalf of an affiliate, the SLC, USF, or TRS

fees or surcharges or a portion thereof must be associated with a basic bundle.

1. The LEC must provide written notice to the commission's Division of Communications of the SLC, USF, or TRS fees or surcharges. This notice shall include the fee or surcharge name as it appears on the customer's bill, an explanation of the charge, and the billed amount. The LEC is responsible for the timely submission of information to the Division of Communications on any changes to the amount, name, explanation, or applicability of the fees or surcharges. A LEC shall not disconnect a customer's local exchange services, including basic telephone service, or a basic bundle, for failure to pay any of these fees or surcharges if this notice has not been submitted to the Division of Communications, or the information provided is not current.

2. The SLC, USF, and TRS fees and surcharges must be separately identified on the customer's bill for the LEC to have authority to disconnect local exchange services, including basic telephone service, or a basic bundle, for nonpayment of any of these fees or surcharges.

D. A LEC may disconnect any local exchange service that the LEC is not required by the commission to include in tariffs on file with the commission for nonpayment of such service; however, the LEC may disconnect only those nontariffed local exchange services for a customer's failure to pay for those nontariffed local exchange services.

E. Nothing in this chapter is intended to alter the responsibility of a customer to pay for services or products used or subscribed to, or other charges that appear on the customer's bill from a LEC.

20 VAC 5-413-20. Notice Customer bill and directory information.

A. ~~LECs~~ A LEC shall indicate on a customer's ~~monthly bills~~ bill either those items for which ~~service~~ local exchange services, including basic telephone service, or a basic bundle, may be ~~terminated~~ disconnected, or those items for which ~~service~~ such services may not be ~~terminated~~ disconnected for failure to pay, and shall include an explanation, by footnote or otherwise, that local ~~telephone service~~ exchange services, including basic telephone service, or a basic bundle, may not be ~~terminated~~ disconnected for failure to pay for ~~certain~~ other services.

B. The form of this notification and any subsequent modifications must receive prior approval from the commission's Division of Communications.

C. LEC White Pages telephone directories shall include an explanation of the services for which local exchange ~~service~~ services, including basic telephone service and basic bundles, may be ~~terminated~~ disconnected for failure to pay, an explanation that billing disputes may be referred to the commission's Division of Communications, and a listing of the division's toll-free and local telephone numbers.

20 VAC 5-413-25. Customer notice of disconnection.

A. A LEC shall provide a customer written notice by mail, or may use e-mail notice if the customer elects to be billed

electronically, of the potential disconnection of basic telephone service or a basic bundle. Notice shall be sent separate from the customer's bill, and must be mailed at least 10 days prior to the planned disconnection date stated on the notice.

B. A LEC may be permitted to provide the notice required in subsection A in a different format or vehicle if a request with supporting rationale is submitted to and approved by the Division of Communications.

C. The notice shall clearly identify the amount that must be paid to prevent disconnection of the customer's basic telephone service or a basic bundle. That amount may or may not be the total outstanding amount owed to the LEC. The notice shall also include the date by which the payment must be received by the LEC to avoid disconnection.

D. The notice shall include the toll-free number of the LEC for customer inquiries about the notice or to make payment arrangements.

20 VAC 5-413-30. Access to ~~other~~ interexchange carriers.

~~A LEC billing on behalf of an interexchange carrier may, together with the interexchange carrier, block a customer's access to the interexchange carrier when the toll charges of the interexchange carrier, at the request of an IXC, may use selective toll blocking to restrict a customer's access to that IXC when the long-distance charges of that IXC have not been paid by that customer; but the LEC may not block that customer's access to other interexchange carriers~~ IXCs for such nonpayment.

20 VAC 5-413-35. Customer billing disputes.

A. Any billing dispute between the LEC and a customer that is being investigated by the LEC shall be considered a bona fide dispute until the LEC completes its investigation and advises the customer of its determination. The customer's service or services, which are subject to the dispute, shall not be disconnected pending resolution of a bona fide dispute.

B. Any billing dispute between a customer and a LEC that is being investigated by the Division of Communications shall be considered a bona fide dispute until such time as the Division of Communications completes its investigation and advises the customer and LEC of the disposition of the dispute. A customer's service or services, which are subject to the dispute, shall not be disconnected pending resolution by the Division of Communications of a bona fide dispute.

C. A customer with a bona fide dispute under investigation by either the LEC or commission is required to pay on time the undisputed portion of the bill. If requested, the LEC shall assist the customer with determining the undisputed portion of the bill, including any associated taxes, surcharges, and fees.

20 VAC 5-413-40. Payment ~~credit~~ credits.

Customer payments that are less than the total bill balance shall be credited first to ~~any noncompetitive~~ tariffed local exchange services, ~~with any~~ including basic telephone service, basic bundles, and fees and surcharges, where nonpayment would result in a customer being disconnected

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from basic telephone service or a basic bundle. Any remainder shall be credited to any other charges on the bill.

20 VAC 5-413-50. Waiver.

The commission may, at its discretion, waive or grant exceptions to any provision of this chapter.

VA.R. Doc. No. R06-261; Filed June 6, 2006, 4:39 p.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF FORESTRY

REGISTRAR'S NOTICE: Chapter 324 of the 2005 Acts of Assembly transferred the Virginia State Forests Regulations and the Virginia Reforestation of Timberlands Regulations from the Department of Conservation and Recreation to the Department of Forestry. The following regulations are amended to change the Virginia Administrative Code numbers to reflect the new department number.

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

Title of Regulation: **4 VAC 10-30. Virginia State Forests Regulations (adding 4 VAC 10-30-10 through 4 VAC 10-30-350 -- formerly 4 VAC 5-40-10 through 4 VAC 5-40-350).**

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

Effective Date: July 26, 2006.

Agency Contact: Ron Jenkins, General Services Director, Department of Forestry, 900 Natural Resources Drive, Charlottesville, VA 22903, telephone (434) 220-9034, FAX (434) 293-2768.

Summary:

Chapter 324 of the 2005 Acts of Assembly transferred the Virginia State Forests Regulations from the Department of Conservation and Recreation to the Department of Forestry. The amendments change all chapter numbers, revise text according to the Code Commission Style Manual, change text referring to the Department of Conservation and Economic Development to the Department of Forestry, change code section references to current Code of Virginia citations, and make technical spelling corrections.

CHAPTER ~~40~~ 30.
VIRGINIA STATE FORESTS REGULATIONS.

~~4 VAC 5-40-10.~~ 4 VAC 10-30-10. Definitions.

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

"Department" means the Department of ~~Conservation and Recreation~~ Forestry.

"Forest or forests" means all state-owned lands designated as a state forest, including therein all sites, roadways, game food patches, ponds, lakes, streams, rivers, beaches, and recreational areas, together with recreational areas, beaches and lakes assigned to the Department of ~~Conservation and Recreation~~ Forestry, for use, development and administration.

"Forest Superintendent" means the individual designated the forest superintendent by the department or any assistant or assistants the Forest Superintendent may authorize to act for him.

"Owner" means any person, firm, association, co-partnership or corporation owning, leasing or having the extensive use of a sawmill, chipper, debarker or any machinery for use in harvesting forest products, vehicle, animal or any other property under a lease or otherwise.

"Parking area" means any area on a forest designated for parking of motor vehicles of all types, clearly marked on the ground and so indicated by signs.

"Permits" means any written license issued by or under authority of the department, permitting the performance of a specified act or acts. Such permits may be purchased from the Clerk of the Court at the Court House in the counties of Cumberland, Appomattox, Buckingham and Chesterfield, and from a limited number of designated agents located within the general area of the forests.

"Person" means any natural person, corporation, company, association, joint stock association, firm or co-partnership.

"Regulation" means any regulation adopted by the Department of ~~Conservation and Recreation~~ Forestry.

"Road" means any road, logging road, trail or path used in the harvesting and movement of forest products, hunting or recreation, irrespective of the state of maintenance.

"Timber sale" means any written signed agreement wherein the ~~Department Director~~ State Forester agrees to sell and the purchaser agrees to purchase any designated forest ~~product products~~ for a mutually agreed price per unit or lot.

~~4 VAC 5-40-20.~~ 4 VAC 10-30-20. Construction.

In the interpretation of Virginia State Forests Regulations, their provisions shall be construed as follows:

- (i) 1. Any terms in the singular shall include the plural;
- (ii) 2. Any term in the masculine shall include the feminine and the neuter;
- (iii) 3. Any requirements or prohibition of any act shall, respectively extend to and include the causing or procuring, directly or indirectly, of such act;
- (iv) 4. No provision hereof shall make unlawful any act necessarily performed by any officer or employee of the department in line of duty or work as such, or by any

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person, his agents or employees, in the proper and necessary execution of the terms of any agreement with the department;

~~(v)~~ 5. Any act otherwise prohibited by Virginia State Forests Regulations, provided it is not otherwise prohibited by law or local ordinance, shall be lawful if performed under, by virtue of and strictly within the provisions of a permit so to do, and to the extent authorized thereby; ; and

~~(vi)~~ 6. These regulations are in addition to and supplement the State Vehicle and Traffic Laws which are in force in all forests and which are incorporated herein and made a part hereof.

~~4 VAC 5-40-30. 4 VAC 10-30-30. Territorial scope.~~

All Virginia State Forests Regulations shall be effective within and upon all state forests, roads, sites, ponds, lakes, streams, rivers, beaches, food patches, and recreational areas in the Commonwealth which may be under the jurisdiction of the department and shall regulate the use thereof by all persons. Areas designated by the department as state forests are: ~~Prince Edward-Gallion in Prince Edward County; Appomattox-Buckingham in Appomattox and Buckingham Counties; Bourassa in Bedford County; Browne in Essex and King and Queen Counties; Chilton Woods in Lancaster County; Conway-Robinson in Prince William County; Crawfords in New Kent County; Cumberland in Cumberland County; Devil's Backbone in Shenandoah County; Hawks in Carroll County; Lesesne in Nelson County; Mathews in Grayson County; Niday Place in Craig County; Paul in Rockingham County; Prince Edward-Gallion in Prince Edward County; Sandy Point in King William County; Whitney in Fauquier County; and Zoar in King William County~~ ~~Pocahontas in Chesterfield County; and Conway-Robinson in Prince William County,~~ together with such other areas as the department may from time to time designate.

~~4 VAC 5-40-40. 4 VAC 10-30-40. Permits.~~

A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the terms and conditions thereof. Any violation by its holder or his agents or employees of any term or condition thereof shall constitute grounds for its revocation by the department, or by its authorized representative. In case of revocation of any permit, all moneys paid for or on account thereof shall, at the option of the department, be forfeited to and be retained by it; and the holder of such permit, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the department for all damages and loss suffered by it in excess of money so forfeited and retained; but neither such forfeiture and retention by the department of the whole or any part of such moneys nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person or persons from liability to punishment for any violation of any provision of any Virginia State Forests Regulation. A state forest hunting permit will be required to hunt or trap on any state forest or portion thereof on which hunting and trapping is permitted.

~~4 VAC 5-40-50. 4 VAC 10-30-50. Preservation of the forest.~~

No person shall remove, destroy, cut down, scar, mutilate, injure, take or gather in any manner any flower, fern, shrub, rock or other plant or mineral in any forest, except only for botanical or mineral rock collection and then only with approval of the Forest Superintendent.

~~4 VAC 5-40-60. 4 VAC 10-30-60. Buildings, signs, structures, or other property.~~

No person shall in any manner injure, deface, disturb, destroy, or disfigure any part of any forest, nor any building, sign, equipment or other property found therein.

~~4 VAC 5-40-70. 4 VAC 10-30-70. Refuse and rubbish; disposal.~~

No person shall deposit in any part of any forest any garbage, sewerage, refuse, waste, fruit, vegetables, foodstuffs, boxes, tin cans, paper, or other litter or other waste material or obnoxious material, except in containers designed for such purposes, or on areas designated by and under conditions specified by the Forest Superintendent.

~~4 VAC 5-40-80. 4 VAC 10-30-80. Pollution of waters.~~

No person shall in the streams, lakes, or other waters of any forest violate any statute of the Virginia Code relating to the pollution of said waters.

~~4 VAC 5-40-90. 4 VAC 10-30-90. Disorderly conduct, public nuisance, etc.~~

No person, while in any forest, shall disobey a lawful order of a Virginia ~~state forests~~ Forest Superintendent, caretaker, ranger, patrolman or other forest officer; nor commit a nuisance, nor use abusive, profane, or insulting language; nor unreasonably disturb or annoy others; be under the influence of intoxicants or unlawful drugs; do any act tending to or amounting to a breach of the peace nor conduct himself in any disorderly manner whatsoever.

~~4 VAC 5-40-100. 4 VAC 10-30-100. Gambling.~~

Gambling in any forest is prohibited and no person shall bring into the forest or have in his possession while there, any implement or device commonly used, or intended for gambling purposes.

~~4 VAC 5-40-110. 4 VAC 10-30-110. Intoxicating liquors, beverages or unlawful drugs.~~

No person shall become intoxicated, or be under the influence of intoxicants or unlawful drugs, in public while within the confines of any forest. Public display or use of beer, wine, whiskey or other intoxicating liquor, beverage or unlawful drugs, or the containers thereof is prohibited.

~~4 VAC 5-40-120. 4 VAC 10-30-120. Charges.~~

No person shall make, use or gain admittance to, or attempt to use or gain admittance to the facilities in any forest for the use of which a charge is made by the department unless he shall pay the charge or price fixed by the department.

~~4 VAC 5-40-130.~~ **4 VAC 10-30-130. Picnic area.**

Picnicking is allowed only in the areas designated as picnic areas.

~~4 VAC 5-40-140.~~ **4 VAC 10-30-140. Camping.**

No camp, either temporary or permanent, shall be maintained in any forest except under permit, and at such places and for such periods as may be designated by the Forest Superintendent.

~~4 VAC 5-40-150.~~ **4 VAC 10-30-150. Bathing, where permitted.**

No person shall bathe, wade, or swim in any waters in a forest except at such times, and in places as the Forest Superintendent may designate as bathing areas, and unless so covered with a bathing suit as to prevent any indecent exposure of the person.

~~4 VAC 5-40-160.~~ **4 VAC 10-30-160. Dressing and undressing.**

Dressing and undressing, except in bathhouses, tents, trailers, motor homes, campers or vacation cabins, is prohibited.

~~4 VAC 5-40-170.~~ **4 VAC 10-30-170. Explosives, fires, etc.**

No person shall bring into or have in any forest any explosive or explosive substance, except commercial sporting firearms ammunition; explosives, explosive substances and firearms of all types are prohibited in any portion of a forest assigned to the Department of ~~Conservation and Recreation~~ *Forestry*, for administration as a recreational area.

~~4 VAC 5-40-180.~~ **4 VAC 10-30-180. Fires, lighted cigarettes, etc.**

In any forest, no person shall kindle, build, maintain, or use a fire other than in places provided or designated for such purposes except by special permit. Any fire shall be continuously under the care and direction of a competent person over ~~sixteen~~ 16 years of age from the time it is kindled until it is extinguished. No person within the confines of any forest shall throw away or discard any lighted match, cigarette, cigar, or other burning object. Any lighted match, cigarette, cigar, or other burning object must be entirely extinguished before being thrown away or discarded. All forest fire laws must be complied with.

~~4 VAC 5-40-190.~~ **4 VAC 10-30-190. Smoking.**

No person shall smoke in any structure or place in any forest where smoking is prohibited. Smoking may be forbidden by the department or its authorized agent in any part of any forest when it is deemed the fire hazard makes such action advisable.

~~4 VAC 5-40-200.~~ **4 VAC 10-30-200. Hunting and fishing.**

No person within the confines of any forest, shall hunt, trap, shoot, injure, kill or molest in any way any bird or animal, nor shall any person have in his possession any bird or animal, dead or alive, within the forest except any bird or animal designated as a game bird or animal by the Virginia Board of Game and Inland Fisheries, and the trapping of, hunting of, shooting at, or possession of any such bird or animal is

prohibited except during the lawful hunting season set for the forest or portion thereof by the Virginia Board of Game and Inland Fisheries and only in those forests or portion thereof designated by the Forest Superintendent as lawful hunting areas. A state forest hunting permit will be required. All provisions of the Virginia Code concerning hunting must be complied with.

~~4 VAC 5-40-210.~~ **4 VAC 10-30-210. Fishing.**

Fishing is permitted in designated areas in each forest, the only stipulation being that persons fishing must have a state fishing license and comply with the Virginia Game and Inland Fisheries rules and regulations.

~~4 VAC 5-40-220.~~ **4 VAC 10-30-220. Boating.**

Use of boats on ponds, lakes or streams within forest areas assigned to the administration of the ~~Division of~~ Department of ~~Conservation and Recreation~~ *Forestry* in addition to other regulations of other state agencies, must comply with the rules and regulations of the Department.

~~4 VAC 5-40-230.~~ **4 VAC 10-30-230. Dogs and other animals.**

No person shall cause or permit any animal owned by him, in his custody, or under his control, except those animals of a resident employee and then only in the general area around the employee's residence, and except a dog restrained by a leash not exceeding six feet in length, to enter any forest, and each such animal found at large may be seized and disposed of as provided by the law or ordinance covering disposal of stray animals on highways or public property then in effect at the place when such animals may be seized, except during the lawful hunting season in effect in the particular forest or portion thereof.

~~4 VAC 5-40-240.~~ **4 VAC 10-30-240. Sports and games.**

In any forest, no games or athletic contests shall be allowed except in such places as may be designated therefor.

~~4 VAC 5-40-250.~~ **4 VAC 10-30-250. Vehicles, where permitted; parking.**

No person shall drive a vehicle in any forest on any road during any period where there is a sign or signs erected on or along the particular road indicating that any such road is closed to vehicular traffic.

~~4 VAC 5-40-260.~~ **4 VAC 10-30-260. Obstructing traffic.**

In any forest, no person or persons shall cause or permit a vehicle or vehicles to obstruct traffic on any road by unnecessary stopping, or to prevent or obstruct by any means the free use by others of any road.

~~4 VAC 5-40-270.~~ **4 VAC 10-30-270. Speed limit.**

Rate of vehicular speed in any forest in excess of the rate as posted by the Virginia Department of Transportation or Forest Superintendent is prohibited.

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~~4 VAC 5-40-280.~~ **4 VAC 10-30-280. View into vehicles.**

Every car driven through any forest or parked in any parking space in any forest shall have the interior thereof open to full view at all times.

~~4 VAC 5-40-290.~~ **4 VAC 10-30-290. Use of roads.**

No person shall operate an excessively loaded vehicle on any forest road. The determination of whether a load is excessive will be made by the Forest Superintendent and will be based upon the load and the condition of the road. In the exercise of his professional judgment, the Forest Superintendent may at any time close to use any forest road.

~~4 VAC 5-40-300.~~ **4 VAC 10-30-300. Meetings, exhibitions, commercial enterprises, etc.**

No person shall, in any forest, without a permit, sell or offer for sale, hire, lease or let out, any object or merchandise, property, privilege, service or any other thing, or engage in any business or erect any building, booth, tent, stall or any other structure whatsoever. No person to whom any property of any forest by authorized permit has been entrusted for personal use shall hire, lease, let out or sell, the same to any other person.

~~4 VAC 5-40-310.~~ **4 VAC 10-30-310. Advertising.**

No sign, notice, or advertisements of any nature shall be erected or posted at any place within any forest without permission in writing from the Forest Superintendent; nor shall any musical instrument, radio, talking machine, or drum be operated or any noise be made for the purpose of attracting attention to any exhibition of any kind.

~~4 VAC 5-40-320.~~ **4 VAC 10-30-320. Meetings and exhibitions.**

No person shall in any forest erect any structure, stand, or platform, hold any meeting, or exhibition, perform any ceremony, make any speech, or address except by permit from the Forest Superintendent.

~~4 VAC 5-40-330.~~ **4 VAC 10-30-330. Alms and contributions.**

No person shall within any forest solicit alms or contributions for any purpose.

~~4 VAC 5-40-340.~~ **4 VAC 10-30-340. Aviation.**

No person shall voluntarily bring, land or cause to descend or alight within or upon any forest, any aeroplane, flying machine, balloon, parachute or other apparatus for aviation except under permit. "Voluntarily" in this connection shall mean anything other than a forced landing.

~~4 VAC 5-40-350.~~ **4 VAC 10-30-350. Sale of forest products.**

From time to time, forest products may be sold from forest land under conditions determined by the department and in accordance with law.

VA.R. Doc. No. R06-258; Filed June 6, 2006, 10:03 a.m.

Title of Regulation: **4 VAC 10-40. Reforestation of Timberlands Regulations (adding 4 VAC 10-40-10 through 4 VAC 10-40-170 -- formerly 4 VAC 5-60-10 through 4 VAC 5-60-170).**

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

Effective Date: July 26, 2006.

Agency Contact: Ron Jenkins, General Services Director, Department of Forestry, 900 Natural Resources Drive, Charlottesville, VA, telephone (434) 220-9034, FAX (434) 293-2768.

Summary:

Chapter 324 of the 2005 Acts of Assembly transferred the Virginia Reforestation of Timberlands Regulations from the Department of Conservation and Recreation to the Department of Forestry. The amendments change all chapter numbers, revise text according to the Code Commission Style Manual, change text referring to the Department of Conservation and Economic Development to the Department of Forestry, change code section references to current Code of Virginia citations, and make technical spelling corrections.

CHAPTER ~~60~~ 40.

REFORESTATION OF TIMBERLANDS REGULATIONS.

PART I.
DEFINITIONS.

~~4 VAC 5-60-10.~~ **Definitions.**

~~Unless a different meaning is required by the context, the following terms as used in these Reforestation of Timberlands Regulations shall have the meanings hereinafter respectively ascribed them~~

~~1. "Reforestation Act" means Reforestation of Timberlands Act, Chapter 4 of Article 9.1 of Title 10 of the Code of Virginia (1950), as amended;~~

~~2. "Department" means the Department of Conservation and Economic Development;~~

~~3. "Committee" means the Reforestation Committee;~~

~~4. "State Forester" means the chief executive officer of the Division of Forestry, Department of Conservation and Economic Development;~~

~~5. "Division" means the Division of Forestry of the Department of Conservation and Economic Development;~~

~~6. "Acre" means one or more acres or part of an acre or any combination of them;~~

~~7. "Project" means the reforestation activity, completed or an approved portion of it, on a specific number of acres, in a specific location under one ownership;~~

~~8. "Tract" means specific acreage upon which a reforestation project is conducted;~~

~~9. "Owner" means individual, corporation, partnership, trust, association or any other business unit, device or arrangement owning land to which the Reforestation Act is applicable;~~

~~10. "Reforestation assistance" means funds, material, personnel or other assistance made available to a landowner pursuant to § 10.90-26 of the Reforestation Act and these Reforestation of Timberlands Regulations.~~

4 VAC 10-40-10. Definitions.

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

"Acre" means one or more acres or part of an acre or any combination of them.

"Board" means the Reforestation Board.

"Department" means the Department of Forestry.

"Forest Products Tax Act" means the tax paid by every person engaged in the Commonwealth in business as a manufacturer or shipper of forest products for sale, profit, or commercial use (§ 58.1-1600 of the Code of Virginia).

"Owner" means individual, corporation, partnership, trust, association or any other business unit, device or arrangement owning land to which the Reforestation Act is applicable.

"Project" means the reforestation activity, completed or an approved portion of it, on a specific number of acres, in a specific location under one ownership.

"Reforestation Act" means Reforestation of Timberlands Act, Article 10 (§ 10.1-1170 et seq.) of Chapter 11 of Title 10.1 of the Code of Virginia.

"Reforestation assistance" means funds, material, personnel or other assistance made available to a landowner pursuant to § 10.1-1173 of the Reforestation Act and these Reforestation of Timberlands Regulations.

"State Forester" means the chief executive officer of the Department of Forestry.

"Tract" means specific acreage upon which a reforestation project is conducted.

PART II.

CONSTRUCTION AND SCOPE OF REGULATIONS.

4 VAC 5-60-20. 4 VAC 10-40-20. Construction.

In the interpretation of the Reforestation of Timberlands Regulations, their provisions shall be construed as follows:

~~(1) any terms~~ 1. Terms in the singular shall include the plural and vice versa.

~~(2) any term~~ 2. Terms in the masculine shall include the feminine and the neuter.

~~(3) any requirement~~ 3. Requirements or prohibitions of any act shall, respectively, extend to and include the causing or procuring, directly or indirectly, of such act.

4 VAC 5-60-30. 4 VAC 10-40-30. Territorial scope.

Reforestation assistance shall be available with respect to all ~~privately owned~~ privately owned forest lands within the boundaries of the State Commonwealth of Virginia except as hereinafter provided.

PART III.

QUALIFYING AND NONQUALIFYING SPECIES, TYPE OF LAND COVER, LAND AREA, AND PRACTICES.

4 VAC 5-60-40. 4 VAC 10-40-40. Qualifying species.

Reforestation assistance shall be available only for the preparation of land for reforestation with commercially valuable species of pine, and for reforesting land suitable for growing timber with commercially valuable species of pine.

4 VAC 5-60-50. 4 VAC 10-40-50. Nonqualifying type of land cover.

In addition to those acres to which the Reforestation Act does not apply pursuant to the provisions of ~~§§ 10.90-33, 10.90-34, and 10.90-35~~ § 10.1-1171 of the Act, reforestation assistance shall not be available with respect to the following:

1. Any acre on which there are present 400 or more well distributed and free-to-grow loblolly pine (*Pinus taeda*), short leaf pine (*Pinus echinata echinata*), pond pine (*Pinus serotina*), white pine (*Pinus strobus*), Virginia pine (*Pinus virginiana*), of pitch pine (*Pinus rigida*), stems or tulip poplar (~~*Liriodendron*~~ *Liriodendron tulipifera*) stems, singly or together, four feet or more in height, measured from ground level to tip of stem.

2. Any acre on which loblolly pine (*Pinus Taeda*), short leaf pine (*Pinus achinata echinata*), pond pine (*Pinus serotina*), or white pine (*Pinus strobus*), singly or together, occur and exceed in number 50 live, thrifty trees of the above species six inches or more in diameter of the point of average thickness measured from outside of bark to outside of bark at a point on the trunk ~~ten~~ 10 inches above the general ground level.

4 VAC 5-60-60. 4 VAC 10-40-60. Minimum and maximum land area.

The ~~Committee board~~ and the State Forester are authorized, within the 500-acre maximum provided in ~~§ 40.90-34~~ 10.1-1171 of the Reforestation Act, to determine, from year to year, the number of acres belonging to any one owner for which reforestation assistance shall be make available.

4 VAC 5-60-70. 4 VAC 10-40-70. Qualifying practices.

The type of forest practices qualifying for reforestation assistance shall include any method approved by the ~~Committee board~~ and State Forester designed to:

~~(1) prepare~~ 1. Prepare land for reforestation, including release, by means of chemical, mechanical or hand methods, of seedlings from overtopping shade of trees, brush, or shrubs;

~~(2) reforest~~ 2. Reforest land, either naturally or artificially, by sowing of seed and/or planting of seedlings.

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PART IV. SEED TREES.

~~4 VAC 5-60-80.~~ 4 VAC 10-40-80. Seed trees.

After expiration of the number of years that the eight pine and/or two tulip poplar seed trees are required, pursuant to the Seed Tree Act, to be left standing following the date of cutting of the timber, and after release of the tract to the owner, reforestation assistance may be made available with respect to any acre on which seed trees were left standing and uncut as required by the Seed Tree Act, provided such reforestation assistance is not prohibited by the provisions of ~~4 VAC 5-60-50~~ 4 VAC 10-40-50.

PART V. EQUIPMENT.

~~4 VAC 5-60-90.~~ 4 VAC 10-40-90. Types of equipment.

The ~~Committee~~ board and the State Forester are authorized from time to time, to determine the type and quantity of necessary equipment required to carry out the provisions of the Reforestation Act.

~~4 VAC 5-60-100.~~ 4 VAC 10-40-100. Rate of payment for equipment, materials, supplies and personnel.

The ~~Committee~~ board and the State Forester shall, from time to time, establish a schedule of standard rates to be charged for state owned and supplied equipment, materials, supplies and personnel used on a project, and such rates shall be used by the State Forester in determining the total cost of a completed project, which total cost shall be the basis of the incentive payment to the landowner provided for in § ~~40-90-26~~ 10.1-1173 of the Reforestation Act.

PART VI. SUPERVISORY PERSONNEL.

~~4 VAC 5-60-110.~~ 4 VAC 10-40-110. Supervisory personnel.

The ~~Committee~~ board and the State Forester shall determine, from time to time, the classifications of employees, based on the State Personnel Classification, which for purposes of the Reforestation Act constitute Administrative Supervisory Personnel.

PART VII. EXPENDITURES OF TAXES.

~~4 VAC 5-60-120.~~ 4 VAC 10-40-120. Expenditure of taxes collected within a county.

Whenever it is impractical to expend within any county within one tax year 50% of the forest products tax collected on pine timber in that county, in any one tax year, as provided in § ~~58-838.7-1~~ 58.1-1611 of the ~~Reforestation~~ Forest Products Tax Act, the unexpended balance of the 50% of the total tax collected and encumbered for expenditure in any particular county shall be carried forward and expended in that county in a succeeding two years. At the beginning of the third year this unexpended tax will be available for use in the statewide program wherever needed. The 50% of the total collected in any county not required by law to be expended in that particular county may be expended by the administrator in any county for carrying out the provision of the Act.

PART VIII. CHRISTMAS, ORNAMENTAL AND LANDSCAPE TREES.

~~4 VAC 5-60-130.~~ 4 VAC 10-40-130. Christmas trees.

Reforestation assistance is not authorized under the Reforestation Act for the planting of pine tree seedlings for Christmas trees as the primary crop, but Christmas trees may be severed from the stump from acres planted under the Reforestation Act and sold as thinnings when so recommended by the State Forester.

If the landowner violates the provisions of this chapter, the landowner shall pay to the State Forester a sum equal to the value of all assistance rendered to him by the State Forester as a part of the project, together with legal interest on it from the date such reforestation is rendered.

~~4 VAC 5-60-140.~~ 4 VAC 10-40-140. Ornamental and landscape trees.

Tree seedlings planted on any acre under the provisions of the Reforestation Act shall not be removed from the soil with roots, bare or bagged, or removed in any manner and sold for outdoor ornamental or landscaping purposes.

If the landowner violates the provisions of this chapter, the landowner shall pay to the State Forester a sum equal to the value of any assistance rendered to him by the State Forester as a part of the project together with legal interest on it from the date such reforestation assistance is rendered.

PART IX. ASSISTANCE TO DAMAGED REPLANT AREAS.

~~4 VAC 5-60-150.~~ 4 VAC 10-40-150. Assistance to replant areas damaged by fire, insects, disease, drought, wind or otherwise.

In the event that trees planted on any acre pursuant to the Reforestation Act are destroyed by fire, insects, disease, drought, wind or otherwise through no fault or negligence on the part of the owner of such acre, his agents or employees, to such an extent as to have no commercial savings value, the State Forester is authorized to extend reforestation assistance to the owner to the extent necessary to replant the trees destroyed.

PART X. COMPONENT PAYMENTS.

~~4 VAC 5-60-160.~~ 4 VAC 10-40-160. Component payments.

The ~~Division~~ department may make incentive payments to landowners who have completed a component part of a reforestation project. The total partial payments made for one single project shall not exceed the limit of payments set forth in the Reforestation Act. The State Forester shall determine what practices (as defined in ~~4 VAC 5-60-70~~ 4 VAC 10-40-70) of a total project warrant component payments and shall insure that component payments will be refunded the Commonwealth for those projects which are not completed in a prescribed manner according to the Reforestation of Timberlands Agreements.

PART XI.
INCENTIVE PAYMENTS.

~~4 VAC 5-60-170.~~ **4 VAC 10-40-170. Incentive payments.**

A. The department may from time to time and upon consultation with the ~~Committee,~~ *board* adjust the levels and manner of incentive payments to be offered to landowners for reforestation projects in accordance with the Reforestation Act. Those changes will be for one fiscal year and may not change within a fiscal year. Any such adjustments shall be announced and publicized as far in advance of their affective dates as practical.

B. Effective July 1, 1982, the incentive payments to landowners for approved projects are hereby set at 60% of actual cost or ~~\$80.00~~ \$80 per acre, whichever is the lesser.

VA.R. Doc. No. R06-257; Filed June 6, 2006, 10:03 a.m.

**TITLE 6. CRIMINAL JUSTICE AND
CORRECTIONS**

BOARD OF FORENSIC SCIENCE

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

Title of Regulation: **6 VAC 40-30. Regulations for the Approval of Field Tests for Detection of Drugs (amending 6 VAC 40-30-10, 6 VAC 40-30-20 and 6 VAC 40-30-50).**

Statutory Authority: §§ 9.1-1110 and 19.2-188.1 of the Code of Virginia.

Effective Date: July 26, 2006.

Agency Contact: Katya Herndon, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857 or e-mail katya.herndon@dfs.virginia.gov.

Summary:

The amendments make technical corrections to the regulations that are necessary to conform to the changes in Virginia statutory law that will be effective on July 1, 2006; the amendments correct the code section referenced in this regulation. All references to § 19.2-188.1 are changed to § 19.2-188.1 A.

6 VAC 40-30-10. Definitions.

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

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

"Approval authority" means the Director of the Department of Forensic Science or designee.

Department" means the Department of Forensic Science.

"Drug" means any controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247 of the Code of Virginia.

"Field test" means any presumptive chemical test unit used outside of a chemical laboratory environment to detect the presence of a drug.

"Field test kit" means a combination of individual field tests units.

"List of approved field tests" means a list of field tests or field test kits approved by the department for use by law-enforcement agencies in the Commonwealth and periodically published by the department in the Virginia Register of Regulations in accordance with § ~~19.2-188.1~~ 19.2-188.1 A of the Code of Virginia.

"Manufacturer" means any entity which makes or assembles field test units or field test kits to be used by any law-enforcement officer or agency in the Commonwealth for the purpose of detecting a drug.

"Manufacturers' instructions and claims" means those testing procedures, requirements, instructions, precautions and proposed conclusions which are published by the manufacturer and supplied with the field tests or field test kits.

"Street drug preparations" means any drug or combination of drugs and any other substance which has been encountered or is likely to be encountered by a law-enforcement officer as a purported drug in the Commonwealth.

6 VAC 40-30-20. Authority for approval.

Section ~~19.2-188.1~~ 19.2-188.1 A of the Code of Virginia provides that the Department of Forensic Science shall approve field tests for use by law-enforcement officers to enable them to testify to the results obtained in any preliminary hearing regarding whether any substance, the identify of which is at issue in such hearing, is a controlled substance, imitation controlled substance, or marijuana, as defined in § 18.2-247 of the Code of Virginia.

6 VAC 40-30-50. Maintenance of approved status.

The department may require that this approval be done as often as annually for routine purposes. If any modifications are made to an approved field test by the manufacturer, the department shall be notified in writing of the changes. If unreported modifications are discovered by the department, the department may require that all testing and approval be repeated for the particular manufacturers' approved field tests at any time. The department shall notify the manufacturer in writing of this requirement. Any modified field test must be approved before it can be used in accordance with § ~~19.2-188.1~~ 19.2-188.1 A of the Code of Virginia. These changes shall include, but are not limited to any chemical, procedural or instructional modifications made to the field test.

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VA.R. Doc. No. R06-259; Filed June 6, 2006, 1:48 p.m.

◆ ————— ◆

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

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

Title of Regulation: **9 VAC 20-170. Transportation of Solid and Medical Wastes on State Waters (amending 9 VAC 20-170-70).**

Statutory Authority: § 10.1-1454.1 of the Code of Virginia.

Effective Date: July 26, 2006.

Agency Contact: Virginia A. Butler, Department of Environmental Quality, P.O. Box 10009, 629 East Main Street, Richmond, VA 23240, telephone (804) 698-4053 or e-mail vabutler@deq.virginia.gov.

Summary:

The amendments establish requirements for the special container prototype test for watertight standards for containers used to transport wastes carrying nonhazardous solid and medical wastes on Virginia waters.

9 VAC 20-170-70. Design, operation and maintenance of containers.

A. All transportation of solid waste or regulated medical waste on state waters shall be in containers meeting the specifications and standards specified in this section.

B. Each container must meet the following:

1. Each container shall be watertight and shall be designed, constructed, loaded, operated, secured and maintained so as to prevent the escape of wastes, liquids, and odors and to prevent the loss or spillage of wastes in the event of an accident.
2. Each container shall be stacked no higher on barges than allowable under federal law, and shall be secured to the barges to prevent accidents during transportation, loading and unloading.
3. Each container shall be completely enclosed, rigid, and constructed of nonpermeable material.
4. Each container shall meet all applicable U.S. Department of Transportation specifications.
5. Waste that is rocks, brick, cement block, uncontaminated dirt, broken concrete or road pavement and contains no

paper, vegetative waste, wallboard or wood waste may be contained in covered barges without other containerization and the barge itself shall be considered the container if the following requirements are met:

- a. The barge shall fully comply with all other requirements of this section, 9 VAC 20-170-70, except subdivisions D1, D2 and D3 a, and subsection E of this section.
- b. The waste shall be free of municipal waste, sludge, hazardous waste, regulated medical waste, radiological waste, putrescible waste, ash, waste that gives off gases or objectionable odors, petroleum products, industrial chemicals, industrial waste, or any waste that causes a nuisance.

C. Each container shall be identified on a manifest in accordance with 9 VAC 20-170-100 and be accompanied by a current certificate from the owner of the container that it has been tested and found to be watertight in accordance with the requirements of this part.

D. Each container shall be ~~tested and~~ certified for special service by a delegated approval authority ~~to be in compliance with the requirements of this subsection. A delegated approval authority shall be an approval authority delegated approved by the U.S. Coast Guard in accordance with 49 CFR Parts 450 through 453 (defined in 49 CFR 450.3) as having met the requirements for the approval of prototype containers described in Sections 1.5 and 1.17.2 of the Rules for Certification of Cargo Containers, 1998, American Bureau of Shipping, including a special container prototype test as follows: a minimum internal head of three inches of water shall be applied to all sides, seams, bottom and top of the container for at least 15 minutes on each side, seam, bottom and top, during which the container shall remain free from the escape of water.~~ Delegated approval authority certification shall include, at least, the following items.

1. Each container shall be certified and bear a plate (CSC plate) showing certification of compliance with the International Convention for Safe Containers standards for ocean shipping containers (1972 (CSC), 1996 Edition).
2. Each container shall be certified as meeting the American Bureau of Shipping's general specifications (see Section 6 of the Rules for Certification of Cargo Containers, 1987, American Bureau of Shipping), including weathertightness for general service. Each container shall have affixed to it in a visible and accessible location a decal including the ABS general service emblem, *special service emblem*, a notice and date of certification, and the names, addresses and telephone numbers of the person performing the test and the owner of the container.
3. Each container shall be certified as having passed the following test when it is placed in service and at least once every six months thereafter while it remains in service:
 - a. Each container shall have a minimum internal head of 24 inches of water applied to the container in an upright position for at least 15 minutes during which the container shall remain free from the ~~penetration~~ escape of water. All wastewater and contaminated water resulting from this

test procedure shall be disposed of in compliance with the applicable regulations of the State Water Control Board.

b. Each container shall be visually inspected for damage on all sides, plus the top and bottom and must have no visible holes, gaps or structural damage affecting its integrity or performance.

E. Each container shall have affixed to it in a visible and accessible location: (i) a decal including the ABS general service emblem, a notice and date of certification, and the name and address and telephone numbers of the person performing the test and the owner of the container, (ii) a CSC plate showing compliance with the International Convention for Safe Container Standards as prescribed in this section, (iii) the delegated approval authority certification for compliance with the provisions set forth in subsection D of this section, including a notice and date of certification and the names, addresses and telephone numbers of the persons performing the task and the owner of the container, *and (iv) a special service emblem.*

F. Owners of all containers shall keep a record of testing of each container for, at least, the preceding three years and provide copies of those records to persons who lease or handle the container. Such records shall be available to the department for inspection at the receiving facility.

G. Following each unloading of solid waste from a container, each container shall be visually inspected, as practical, at the solid waste management facility immediately upon unloading for damage on all sides, plus top and bottom, and shall have no visible holes, gaps, or structural damage affecting its integrity or performance.

~~G.~~ H. Notwithstanding the foregoing, during transportation, holding and storage operations or in the event of an accident, the (i) entry of liquids into a container; (ii) escape, loss or spillage of wastes or liquids from a container; or (iii) escape of odors from a container shall be a violation of this chapter.

DOCUMENTS INCORPORATED BY REFERENCE

Rules for Certification of Cargo Containers, 1987, American Bureau of Shipping.

Rules for Certification of Cargo Containers, §§ 1.5 and 1.17.2, 1998, American Bureau of Shipping.

International Convention for Safe Containers, 1972, 1996 Edition, International Maritime Organization.

VA.R. Doc. No. R06-251; Filed June 1, 2006, 8:48 a.m.

STATE WATER CONTROL BOARD

REGISTRAR'S NOTICE: The following regulations filed by the State Water Control Board are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007 B, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007 F, and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: **9 VAC 25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre (amending 9 VAC 25-660-10 through 9 VAC 25-660-100; adding 9 VAC 25-660-95).**

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Effective Date: August 1, 2006.

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP1 will expire on October 1, 2006. The revisions include minor changes to improve the processing and coordination of authorizations, both for the public, DEQ, and other agencies. These VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes; formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; requiring a complete application and compensatory mitigation for impacts to wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants; extending the life of the general permit regulations to 10 years instead of the current five years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream

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impacts, which were previously combined together as "surface waters."

9 VAC 25-660-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means the Federal Emergency Management Agency.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Histosols" means organic soils that are often called mucks, peats, or mucky peats. The list of histosols in the Commonwealth includes, but is not limited to, the following soil series: Back Bay, Belhaven, Dorovan, Lanexa, Mattamuskeet, Mattan, Palms, Pamlico, Pungo, Pocaty, and Rappahannock. Histosols are identified in the Hydric soils list generated by the United States Department of Agriculture's Natural Resources Conservation Service.

"Impacts" means results caused by human-induced activities conducted in surface waters as specified in § 62.1-44.15:5 D of the Code of Virginia.

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions* of a *phased* project that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (~~0 to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanent impacts" ~~are~~ *means* those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

"Person" means an individual, corporation, partnership, association, ~~government~~ *governmental* body, municipal corporation, or any other legal entity.

"Riprap" means a layer of nonerrodible material such as stone or chunks of concrete.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~ , which *also* has independent utility, *as defined in this section*. For linear projects, the "single and complete project" (~~i.e. e.g., a single and complete crossing~~) ~~may but does not always~~ *will* apply to each crossing of a separate surface water (~~i.e. e.g., a single waterbody~~) and to multiple crossings of the same waterbody

at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State programmatic program general permit (SPGP)" means a general permit that is issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR Part 325.2(e)(2), and 33 CFR 325.3(b) and that is founded on a state program and . The SPGP is designed to avoid duplication between the federal and state programs.

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. [~~Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.~~]

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours and , or elevations, such that previous functions and values are restored.

~~"Up to 125 linear feet of perennial stream channel" means 0.00 to 125.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means 0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

~~"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.~~

~~"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet).~~

"Utility line" means any a pipe or pipeline for the transportation of any a gaseous, liquid, liquifiable liquefiable or slurry substance, for any purpose, and any a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term "utility line" does not include activities that drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-660-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP1 under the VWP permit program regulation to govern permanent and temporary impacts to less than one-half of an acre of nontidal surface waters including wetlands or open water and up to 425 300 linear feet of perennial stream channel and up to 1,500 linear feet of nonperennial nontidal stream channel bed. Applications for coverage under by this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. Authorization, authorization with conditions, or denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.

B. The director, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This VWP general permit regulation will become effective on ~~October 1, 2001~~ [~~(insert effective date)~~ August 1, 2006], and will expire on ~~October 1, 2006~~ [~~(insert date that is 10 years after effective date)~~ August 1, 2016].

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-660-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for a maximum of three years.

9 VAC 25-660-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to permanently or temporarily impact less than one-half of an acre of surface waters including nontidal wetlands or open water and up to 425 300 linear feet of perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed, provided that the person submits notification as required in 9 VAC 25-660-50 and 9 VAC 25-660-60, remits the required application processing fee (9 VAC 25-20), complies with the limits and other requirements of 9 VAC 25-660-100, receives approval from the board, and provided that:

1. The applicant submits notification as required in 9 VAC 25-660-50 and 9 VAC 25-660-60.

2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.

3. The applicant complies with the limitations and other requirements of 9 VAC 25-660-100.

4. The applicant receives approval from the Virginia Department of Environmental Quality.

4- 5. The applicant ~~shall~~ has not ~~have~~ been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit,

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or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.

~~2-~~ 6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.

a. Where a road segment (~~i.e.~~ e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.

b. For the purposes of this chapter, when an interchange has multiple crossings of surface waters, the entire interchange shall be considered the single and complete project.

~~3-~~ 7. The stream impact criterion applies to all components of the project, including ~~any~~ structures and stream channel manipulations.

4- 8. Compensation for unavoidable impacts is provided in the form of the purchase or use of *credits from an approved mitigation bank* ~~credits~~ or a contribution to an approved in-lieu fee fund.

B. Only activities in nontidal waters may qualify for coverage under this VWP general permit.

C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value as defined in ~~9 VAC 25-210-10~~ 9 VAC 25-660-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve ~~any~~ *the* permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ [~~the effective date of this regulation~~ *August 1, 2006*], shall constitute coverage under this VWP general permit unless a state ~~programmatic~~ *programmatic* general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-660-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any~~ a *vegetative* stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based on either basal area or percent areal cover in the area of impact.

2. Wetlands underlain by histosols.

3. Nontidal wetlands adjacent to tidal waters.

4. 100-year floodplains as identified by FEMA's flood insurance rate maps or FEMA-approved local floodplain maps.

5. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than one-half of an acre of nontidal ~~surface waters, up to 425 wetlands or open water or greater than 300~~ linear feet of ~~perennial stream channel, or up to 1,500 linear feet of nonperennial nontidal stream channel bed~~. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

C. The activity to impact surface waters shall not have been prohibited by state law or regulations, nor shall it contravene applicable Water Quality Standards (9 VAC 25-260).

D. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ *significantly* affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

E. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any~~ a stream.

F. This VWP general permit may not be used for:

1. Any stormwater management facility that is located in perennial streams or in waters designated as oxygen or temperature impaired; (*does not include wetlands*).

2. The construction of an irrigation impoundment on a perennial stream;.

3. Any water withdrawal activities;.

4. The location of animal feeding operations or waste storage facilities in state waters;
5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam or the work is performed in the dry;
6. Dredging or maintenance dredging;
7. Return flow discharges from dredge disposal sites;
8. The construction of new ski areas or oil and gas wells;
9. The taking of threatened or endangered species in accordance with the following:
 - a. As pursuant to § 29.1-564 of the Code of Virginia:—, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568."
 - b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

~~[10. Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete permit application for further consideration by the board.]~~

9 VAC 25-660-50. Notification.

A. Notification to the board will be required prior to commencing construction, as follows:

1. An application for authorization ~~for~~ of proposed, permanent nontidal wetland or open water impacts greater than one-tenth of an acre, or ~~for~~ of proposed, permanent nontidal stream channel bed impacts greater than 300 linear feet shall ~~[be submitted via an application that includes~~ include] all information pursuant to 9 VAC 25-660-60 B ~~[7. Once permanent impacts exceed these limits, compensatory, except for 9 VAC 25-660-60 B 20 when the application is for a Virginia Department of Transportation (VDOT) administered project. VDOT shall provide the information in 9 VAC 25-660-60 B 20 through the VDOT State Environmental Review Process, the National Environmental Policy Act (42 USC § 4321 et seq.) (for federal actions), or the VDOT Geographic Information System. Compensatory] mitigation may be~~

~~required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.~~

~~2. An application for the authorization of proposed, permanent surface nontidal wetland or open water impacts up to one-tenth of an acre, which may include up to or of proposed, permanent nontidal stream bed impacts up to 300 linear feet of stream channel, shall be reported submitted [via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20, and 20-21 of 9 VAC 25-660-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation. as follows:~~

~~a. For a proposed VDOT-administered project that is not subject to subdivision 2 c of this subsection, the application shall include the information required by subdivisions 1 through 8, 13, 15, and 21 of 9 VAC 25-660-60 B. The VDOT Quarterly Reporting of Impacts Less Than One-Tenth Acre application may be used, provided that it contains the required information. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.~~

~~b. For all other projects that are not subject to subdivision 2 c of this subsection, the application shall include the information required by subdivisions 1 through 9, 13, 15, 20, and 21 of 9 VAC 25-660-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.~~

~~c. For any proposed project in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), when such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, the application shall include all of the information required by 9 VAC 25-660-60 B, and documentation that verifies the quantity and type of impacts. Application for a VDOT-administered project shall provide the required information in 9 VAC 25-660-60 B 20 through the VDOT State Environmental Review Process, the National Environmental Policy Act (for federal actions), or the VDOT Geographic Information System. Compensatory mitigation may be required for all permanent impacts, regardless of amount. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.]~~

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B. A Joint Permit Application (JPA) [~~or~~, a] Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) [~~, or a VDOT Quarterly Reporting of Impacts Less Than One-Tenth Acre~~] shall serve as an application under this regulation.

C. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of ~~any~~ federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-660-60. Application.

A. Applications shall be filed with the board as follows:

1. The applicant shall file a complete application ~~as described in accordance with 9 VAC 25-660-50 for a VWP General Permit WP1 for impacts to surface waters nontidal wetlands or open water of less than one-half of an acre, including and up to 425 300 linear feet of perennial stream channel and up to 4,500 linear feet of nonperennial nontidal stream channel bed,~~ which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number; ~~and, if applicable, fax number.~~

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;.

3. The existing VWP permit number (if applicable);.

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;.

5. The name of the water body or water bodies or receiving stream, as applicable;.

6. The hydrologic unit code (HUC) for the project area;.

7. The name of the city or county where the project is located;.

8. Latitude and longitude (to the nearest second) from a central location within the project limits;.

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;.

10. (Reserved.);

11. The project plan view. ~~All~~ Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing contours, proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information in this subdivision, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. (Reserved.);

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width); the location (latitude and longitude) at the center of the impact, or at the center of each impact for linear projects; and the type of surface water impact (*open water; wetlands according to the Cowardin classification or similar terminology; or perennial and nonperennial for streams*);. *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. (Reserved.);

15. A description of the specific on-site measures considered ~~or~~ and taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;.

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. ~~Any applicant~~ Applicants proposing compensation involving contributions to an in-lieu fee fund shall state such as their conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this VWP general permit authorization; and

b. ~~Any applicant~~ Applicants proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits;.

17. A delineation map of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the on-site location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located*

within an RPA. Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall also be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site; *(impacts that include linear feet of stream bed must be converted to a square footage or acreage using the stream width in order to calculate the permit application fee).*

19. The appropriate application processing fee for a VWP general permit *{ in accordance with 9 VAC 25-20; and . The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.*

20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.

~~20.~~ 21. The following certification:

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

C. The application shall be signed in accordance with 9 VAC 25-210-100. If an agent is acting on behalf of an applicant, the applicant shall submit an authorization of the agent that includes the signatures of both the applicant and the agent.

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine that the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit program regulation.

E. Incomplete application. Where an application is incomplete, the board may require the submission of additional information and ~~shall may~~ suspend processing the application until such time as the applicant has supplied the ~~missing or deficient requested~~ information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report reports~~ to the board, ~~he the applicant~~ shall immediately submit such facts or the correct information. ~~Such A revised~~ application with new information shall be deemed a new application, but shall not require an additional permit application fee. ~~An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.~~

9 VAC 25-660-70. Compensation.

A. *In accordance with 9 VAC 25-660-50 A [4], compensatory mitigation may be required for all permanent, nontidal surface water impacts [~~once the notification limits are exceeded~~]. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.*

~~A.~~ B. *Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, for the purposes of this VWP general permit, the board shall assume that the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund is ecologically preferable to practicable on-site or other off-site surface water compensation options, and no further demonstration is necessary.*

C. *In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.*

D. *In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.*

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~~B. E. Compensation for unavoidable, permanent wetland impacts shall be provided at a 2:1 replacement compensation to impact ratio, as calculated on an area basis.~~

~~C. Compensation for unavoidable stream impacts shall be provided through the purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements. F. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor determining the required stream compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. G. Compensation for permanent open water impacts other than to streams may be required, as appropriate, at a 1:1 replacement to impact ratio, as calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. H. Compensation for conversion impacts to wetlands shall be required at a 1:1 [replacement compensation] to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-660-80. Notice of planned changes.

~~A. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

~~A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of~~

~~wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.~~

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

~~F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.~~

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request shall be reviewed according to all provisions of this regulation. H. In no case can this authorization be modified to exceed the general permit threshold for use.~~

~~I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B [of this section] are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.~~

9 VAC 25-660-90. Termination of authorization by consent.

~~When all permitted activities requiring notification under 9 VAC 25-660-50 A [4] and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf~~

of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities *and any required compensatory mitigation* authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ the activities or the *required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-660-95. Transition.

A. All applications received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to [~~insert effective date~~] August 1, 2006,] will remain in full force and

effect until such authorizations expire, are revoked, or are terminated.

C. Notices of planned change and all other types of notification that are received by the board prior to [~~insert effective date~~] August 1, 2006,] will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of planned change and all other types of notification to the board that are received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

9 VAC 25-660-100. VWP general permit.

Any applicant whose application has been accepted by the board shall be subject to the following requirements:

VWP General Permit No. WP1

Authorization effective date:

Authorization expiration date:

Authorization Note(s):

VWP GENERAL PERMIT FOR IMPACTS LESS THAN ONE-HALF OF AN ACRE UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Based upon an examination of the information submitted by the applicant and in compliance with § 401 of the Clean Water Act as amended (33 USC § 1341) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this VWP general permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to *permanently or temporarily* impact less than one-half of an acre of nontidal ~~surface waters including wetlands or open water~~ and up to ~~425 300~~ linear feet of ~~perennial stream channel and up to 1,500 linear feet of nonperennial~~ nontidal stream channel bed.

Permittee:

Address:

Activity Location:

Activity Description:

The authorized activity shall be in accordance with this cover page, Part I--Special Conditions, Part II--Compensation, Monitoring, and Reporting, and Part III--Conditions Applicable to All VWP General Permits, as set forth herein.

Director, Department of Environmental Quality

Date

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Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes *permanent or temporary* impacts to less than one-half of an acre of nontidal ~~surface waters, including wetlands or open water~~ and up to ~~125,300~~ 300 linear feet of ~~perennial stream channel, and up to 1,500 linear feet of nonperennial~~ nontidal stream channel bed, according to the information provided in the approved *and complete* application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-660-80, or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized by this VWP general permit must commence and be completed within three years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP general permit requirement (*including compensation*) has not been completed within three years of the date of authorization. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize ~~any~~ adverse ~~impact~~ impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species that normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore, the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

7. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

8. No machinery may enter flowing waters, unless authorized by this VWP general permit.

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude ~~any~~ unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in* these marked ~~areas~~ ~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present

along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ the time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~ , the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ the time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

~~[17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters, unless allowed by this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.~~

~~18.~~ 17.] If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or other similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection control structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

G. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (~~i.e.~~ e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

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2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization, or compensation, provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and are accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. ~~Compensation~~ Minimum compensation requirements.

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. The types of compensation options that may be considered under this VWP general permit include: *the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund in accordance with 9 VAC 25-210-115 and 9 VAC 25-660-70, provided that all impacts are compensated at a 2:1 ratio.*

~~a. Purchases or use of credits from approved mitigation banks meeting the requirements of 9 VAC 25-210-115 F in accordance with 9 VAC 25-660-70 and provided that all impacts are compensated at a 2:1 ratio; or~~

~~b. Contributions to an in-lieu fee fund approved in accordance with 9 VAC 25-210-115 E and dedicated to the achievement of no net loss of wetland acreage and function, provided that wetland impacts are compensated at a 2:1 ratio.~~

3. A written statement that conveys the applicant's proposal to use a mitigation bank or in-lieu fee fund for compensation shall be submitted with the application and shall constitute the final compensation plan for the approved project. ~~A site change will require a modification to the authorization. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Deviations from the approved plan must be submitted and approved in advance by the board.~~

4. The permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage of the fund contribution has been submitted to and received by DEQ.

~~5. The compensation plan shall be approved by the board prior to any construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Any deviations from the approved plan must be submitted and approved in advance by the board.~~

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the ~~preconstruction~~ *preexisting* conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second and third months ~~of~~ *after commencing* construction, and then ~~semi-annually~~ *every six months thereafter*, for the remainder of the construction project; ~~except. Photos are not required~~ during periods of no activity within impact areas;

b. An ortho-rectified photograph shall be taken prior to construction, and *then* annually thereafter until all impacts are taken; ~~and. All photos shall clearly show the delineated surface waters and authorized impact areas; or.~~

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months ~~of after commencing construction in impact areas, and then semi-annually every six months thereafter~~, for the remainder of the construction activities ~~in impact areas, except. Narratives are not required~~ during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; *surface water discharges from the site*; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner: *noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.*

a. A sampling station shall be located upstream and immediately downstream of the relocated channel;

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least

two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

C. Reporting.

1. Written communications required by this VWP general permit shall be submitted to the appropriate Department of Environmental Quality (DEQ) office. The VWP general permit authorization number shall be included on all correspondence.

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ no later than the 10th day of the month following the month in which the monitoring event specified in Part II B takes place. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and expected date of completion.

b. ~~Properly Photographs~~ ~~labeled photographs with the permit number, the photo station number, the photo orientation, (to include the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.).~~ ~~The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.~~ The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in ~~any~~ a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered that require debris removal or involve a potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of ~~any~~ a structure are prohibited until approved by DEQ.

6. The permittee shall report ~~any~~ fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

7. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

8. ~~All~~ Submittals required by this VWP general permit shall contain the following signed certification statement:

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

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

B. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent ~~any~~ impacts in violation of the VWP general permit which may have a reasonable likelihood of adversely affecting human health or the environment.

C. Reopener. This VWP general permit authorization may be reopened to modify its conditions when the circumstances on which the previous VWP general permit authorization was based have materially and substantially changed, or special studies conducted by the board or the permittee show material

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and substantial change since the time the VWP general permit authorization was issued and thereby constitute cause for VWP general permit authorization revocation and reissuance.

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

E. Property rights. Coverage under this VWP general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal property rights, nor any infringement of federal, state or local laws or regulations.

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1.~~ to enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP general permit conditions; ~~2.~~ to inspect any facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~3.~~ and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee if: ~~when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee~~ permittees containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; ~~and.~~

3. The board does not notify the ~~existing current~~ and new ~~permittee~~ permittees of its intent to modify or revoke and reissue the VWP general permit authorization within 15 days.

~~On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance if: ~~(i)~~ ~~the in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than ~~50~~ 100 linear feet, and ~~provided that the all additional impacts are fully compensated;~~ ~~(ii) there.~~

2. The project results in less wetland or stream impacts, in which case compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii) there.~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv) there.~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) typographical F.~~

5. ~~Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

J. VWP general permit authorization termination for cause. This VWP general permit authorization is subject to termination for cause by the board after public notice and opportunity for a hearing. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully

all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under ~~9 VAC 25-690-50~~ 9 VAC 25-660-50 A [4] and all *compensatory mitigation* have been completed, or when the authorized impacts will not occur, or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank. The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities *and any required compensatory mitigation* authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

L. Civil and criminal liability. Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

M. Oil and hazardous substance liability. Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

N. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

O. Duty to provide information.

1. The permittee shall furnish to the board ~~any~~ information which the board may request to determine whether cause exists for modifying, revoking, *and* reissuing, and terminating the VWP permit *authorization*, or to determine compliance with the VWP permit *authorization*. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to

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complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include, as appropriate:

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

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

Q. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alter or degrade existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

NOTICE: The forms used in administering 9 VAC 25-25-660, Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Department of Environmental Quality Water Division Permit Application Fee Form (eff. 7/04).

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04).

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04).

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02).

[*Quarterly Reporting of Impacts Less than One-Tenth Acre (insert reporting period) Statewide (eff. 4/03).*]

VA.R. Doc. No. R05-286; Filed June 5, 2006, 12:47 p.m.

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Title of Regulation: 9 VAC 25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities (amending 9 VAC 25-670-10 through 9 VAC 25-670-100; adding 9 VAC 25-670-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Effective Date: August 1, 2006.

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23229, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP2 will expire on October 1, 2006. The revisions include minor changes to improve the processing and coordination of authorizations for the public, DEQ, and other agencies. These VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations. It is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The amendments (i) modify definitions; (ii) make minor grammatical changes; (iii) format, consolidate and reorder text to improve readability; (iv) clarify existing requirements; (v) require a complete application and compensatory mitigation for impacts to wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants; (vi) extend the life of the general permit regulations to 10 years instead of the current five years; (vii) extend the permit authorization period to up to seven years; (viii) reiterate provisions in the main VWP regulation for purposes of emphasis; (ix) clarify the project extent for a notice of planned change; and (x) amend the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters."

9 VAC 25-670-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless

the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toe stabilization, anti-scouring devices, and submerged sills.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional sketch" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and are usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas normally possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

"Impacts" means results caused by human-induced activities conducted in surface waters, as specified in § 62.1-44.15:5 D of the Code of Virginia.

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions* of a *phased* project that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that: (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is

not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (~~0 to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanent impacts" ~~are~~ *means* those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

"Person" means an individual, corporation, partnership, association, ~~government~~ *governmental* body, municipal corporation, or any other legal entity.

"Riprap" means a layer of nonerodible material such as stone or chunks of concrete.

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include tree shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which *also* has independent utility, as *defined in this section*. For linear projects, the "single and complete project" (~~i.e.~~ e.g., a single and complete crossing) ~~may but does not always will~~ apply to each crossing of a separate surface water (~~i.e.~~ e.g., a single waterbody) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ *program* general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR ~~Part 325~~ 325.2(e)(2), and 33 CFR 325.3(b) that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

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"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. [~~Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.~~]

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours and elevations, such that previous functions and values are restored.

"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.

~~"Up to 500 linear feet of perennial stream channel" means 0.00 to 500.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means >0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet) or less.

"Utility line" means any a pipe or pipeline for the transportation of any a gaseous, liquid, liquefiable or slurry substance, for any purpose, and any a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-670-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP2 under the VWP permit program regulation to govern permanent and temporary impacts related to the construction and maintenance of utility lines. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. Authorization, authorization with conditions, or

denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.

B. The director, or his designee, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This VWP general permit regulation will become effective on ~~October 1, 2004~~ [~~insert effective date~~] August 1, 2006], and will expire on ~~October 1, 2006~~ [~~insert date that is 10 years after effective date~~] August 1, 2016].

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-670-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for a maximum of three seven years.

9 VAC 25-670-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to permanently or temporarily impact up to one acre of nontidal surface waters, including wetlands or open water and up to 500 1,500 linear feet of perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel, bed for facilities and activities of utilities and public service companies regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and other utility line activities, provided that the person submits notification as required in 9 VAC 25-670-50 and 9 VAC 25-670-60, remits the required application processing fee (9 VAC 25-20), complies with the limitations and other requirements of 9 VAC 25-670-100, receives approval from the board, and provided that:

1. The applicant submits notification as required in 9 VAC 25-670-50 and 9 VAC 25-670-60.

2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.

3. The applicant complies with the limitations and other requirements of 9 VAC 25-670-100.

4. The applicant receives approval from the Virginia Department of Environmental Quality.

~~4- 5.~~ 5. The applicant [~~shall~~ has] not [~~have~~] been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit or coverage under another applicable VWP general permit in lieu of this VWP general permit.

~~2- 6.~~ 6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.

a. Where a utility line has multiple crossings of surface waters (several single and complete projects) with more than minimal impacts, the board may at its discretion require a VWP individual permit for the project.

b. Where an access road segment (i.e., e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.

7. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.

8. When functions and values of surface waters are permanently adversely affected, such as for conversion of forested to emergent wetlands in a permanently maintained utility right-of-way, compensation shall be required for impacts outside of a 20-foot wide permanently maintained corridor. Compensation shall not be required for impacts within the 20-foot wide portion of permanently maintained corridor. For example, with a 50-foot wide, permanently maintained corridor, compensation on each side of the 20-foot portion would be required for impacts that occur between the 20-foot and the 50-foot marks.

~~3-9. Compensation for unavoidable impacts is provided in the form of any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. For wetlands compensation may incorporate preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation or restoration and enhancement of adjacent riparian buffers accordance with 9 VAC 25-670-70.~~

~~4. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.~~

~~5. When functions and values of surface waters are permanently adversely affected, such as for conversion of forested to emergent wetlands in permanently maintained utility right-of-ways, compensation will be required. Permanently maintained access corridors no wider than 20 feet will be allowed without compensation.~~

B. Activities that may be authorized under this VWP general permit include the following:

1. The construction, maintenance or repair of utility lines, including outfall structures and the excavation, backfill or bedding for utility lines provided there is no change in preconstruction contours;

2. The construction, maintenance or expansion of a substation facility or pumping station associated with a power line or utility line;

3. The construction or maintenance of foundations for overhead utility line towers, poles or anchors, provided the foundations are the minimum size necessary and separate footings for each tower leg (rather than a single pad) are used where feasible; and

4. The construction of access roads for the construction or maintenance of utility lines including overhead power lines

and utility line substations, provided the activity in combination with any substation does not exceed the threshold limit of this VWP general permit.

C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value, as defined in ~~9 VAC 25-240-40~~ 9 VAC 25-670-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve any the permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ [~~insert the effective date of this regulation~~] August 1, 2006], shall constitute coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-670-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in any a vegetative stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than one acre of nontidal surface waters, or more wetlands or open water or greater than 500 1,500 linear feet of perennial nontidal stream channel or more than 1,500 linear feet of nonperennial stream channel bed. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the

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cumulative impact to surface waters does not exceed the limits specified here.

C. The activity to impact surface waters shall not have been prohibited by state law or regulations, nor shall it contravene applicable Water Quality Standards (9 VAC 25-260).

D. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely significantly~~ affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

E. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of any a stream.

F. This VWP general permit may not be used for:

1. ~~Any Construction of a~~ stormwater management facility;
2. Any water withdrawal ~~activity~~; *activities*.
3. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam or the work is performed in the dry;
4. Dredging or maintenance dredging;
5. The taking of threatened or endangered species in accordance with the following:
 - a. As pursuant to § 29.1-564 of the Code of Virginia:—, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568.—
 - b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation-, processing, sale or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

~~[6. Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the~~

~~applicant may submit a full and complete permit application for further consideration by the board.]~~

9 VAC 25-670-50. Notification.

A. Notification to the board is not required for utility line activities that have only temporary impacts provided ~~they~~ the impacts do not involve mechanized land clearing of forested wetlands.

B. Notification to the board will be required prior to commencing construction, as follows:

1. An application for *authorization of* proposed, permanent *nontidal wetland or open water* impacts greater than one-tenth of an acre ~~of surface waters~~, or for *proposed permanent nontidal stream bed* impacts greater than 300 linear feet ~~[of stream channel]~~, shall ~~[be submitted via an application that includes include]~~ all information pursuant to 9 VAC 25-670-60 B. ~~[Once permanent impacts exceed these limits,]~~ *Compensatory mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.*

2. *An application for the authorization of* proposed, permanent ~~surface~~ *nontidal wetland or open water* impacts up to one-tenth of an acre, ~~which may include or [of of] proposed, permanent nontidal stream bed~~ impacts up to 300 linear feet ~~of stream channel~~, shall be ~~reported submitted [via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20, and] 20 [21 of 9 VAC 25-670-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation. as follows:~~

- a. *For projects that are not subject to subdivision 2 b of this subsection, the application shall include the information required by subdivisions 1 through 9, 13, 15, 20, and 21 of 9 VAC 25-670-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.*

- b. *For any proposed project in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), when such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, the application shall include all of the information required by 9 VAC 25-670-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts, regardless of amount. All temporary impacts, regardless of amount, shall be restored to preexisting*

conditions, as per Parts I and III of this VWP general permit regulation.]

C. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

D. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of any federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.*

9 VAC 25-670-60. Application.

A. Applications shall be filed with the board, as follows:

1. The applicant shall file a complete application ~~as described~~ in accordance with 9 VAC 25-670-50 for a VWP General Permit WP2 for impacts to surface waters resulting from activities of utilities, which will serve as a notice of intent for coverage under this VWP general permit.

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number; *and, if applicable, fax number.*

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;

3. The existing VWP permit number (if applicable);

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;

5. The name of the water body or water bodies or receiving stream, as applicable;

6. The hydrologic unit code (HUC) for the project area;

7. The name of the city or county where the project is located;

8. Latitude and longitude [τ () to the nearest second [τ)] from a central location within the project limits;

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;

10. (Reserved.);

11. Project plan view. ~~All~~ Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing and proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. (Reserved.)

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width), the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects) and the type of surface water impact (*open water; wetlands according to the Cowardin classification or similar terminology; or perennial and nonperennial for streams*). *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters/ *and* functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats;

15. A description of the specific on-site measures considered ~~or~~ *and* taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils, including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

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b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second~~; the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund [,] shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

d. ~~Any applicant~~ Applicants proposing compensation involving contributions to an in-lieu fee fund shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ Applicants proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

- (1) The name of the proposed mitigation bank and the HUC in which it is located;
- (2) The number of credits proposed to be purchased or used; and
- (3) Certification from the bank owner of the availability of credits;

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall ~~also~~ be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the~~

~~map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site;

19. The appropriate application processing fee for a VWP general permit ~~(in accordance with 9 VAC 25-20); and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.~~

20. *A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.*

20-21. The following certification:

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

C. The application shall be signed in accordance with 9 VAC 25-210-100. If an agent is acting on behalf of an applicant, the applicant shall submit an authorization of the agent that includes the signatures of both the applicant and the agent.

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under the VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under the VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under the VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of surface waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

E. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and ~~shall~~ may suspend processing the application

until such time as the applicant has supplied the ~~missing or deficient~~ requested information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, he shall immediately submit such facts or the correct information. ~~Such~~ A revised application with new information shall be deemed a new application, but shall not require an additional permit application fee. An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.

9 VAC 25-670-70. Compensation.

A. In accordance with 9 VAC 25-670-50 B [4], compensatory mitigation may be required for all permanent, nontidal surface water impacts [~~once the notification limits are exceeded~~]. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.

B. Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable [~~or to~~] practicable [~~on-site or in-kind compensation~~] may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is [~~practicable and~~] ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.

~~A.-C. For the purposes of this VWP general permit, the board may accept any one or combination of the following as compensation compensatory mitigation for unavoidable wetland impacts may be met through the following: wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an in-lieu fee fund. Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above mentioned compensation options. Preservation or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

1. Wetland creation.
2. Wetland restoration.
3. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.
4. A contribution to an approved in-lieu fee fund.

5. Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

6. Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.

7. Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.

D. For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:

1. Stream channel restoration or enhancement.
2. Riparian buffer restoration or enhancement.
3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.
4. A contribution to an approved in-lieu fee fund.
5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.

F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.

~~B.~~ G. Compensation for unavoidable permanent wetland impacts shall be provided at the following *minimum* compensation to impact ratios:

1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.
2. Impacts to scrub-shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.
3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.

~~C. Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable.~~ H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required stream compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.

~~D.~~ I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to

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impact ratio, as ~~appropriate~~ *calculated on an area basis*, to ~~protect~~ *offset impacts* to state waters and fish and wildlife resources from significant impairment.

~~E.~~ *J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.*

~~F.~~ *In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.*

~~G.~~ *In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.*

9 VAC 25-670-80. Notice of planned changes.

A. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development [or within logical termini], the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not great greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.

~~B.~~ *C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be*

responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.

~~C.~~ *D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.*

~~D.~~ *E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.*

~~E.~~ *F. Authorization under the VWP general permit may be modified after issuance for typographical errors.*

~~F.~~ *G. A notice of planned change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.*

~~G.~~ *The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation. H. In no case can this authorization be modified to exceed the general permit threshold for use.*

I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B of this section are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.

9 VAC 25-670-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-670-50 B [4] and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the ~~applicant~~ *permittee* shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:
 - a. For project completion:

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP

general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities *and any required compensatory mitigation* authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-690-95. Transition.

A. All applications received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to [~~insert effective date~~] August 1, 2006,] will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of planned change and all other types of notification that are received by the board prior to [~~insert effective date~~] August 1, 2006,] will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of planned change and all other types of notification to the board that are received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

9 VAC 25-670-100. VWP general permit.

Any applicant whose application has been accepted by the board shall be subject to the following requirements:

VWP General Permit No. WP2

Authorization effective date:

Authorization expiration date:

Authorization Note(s):

VWP GENERAL PERMIT FOR FACILITIES AND ACTIVITIES OF UTILITIES AND PUBLIC SERVICE COMPANIES REGULATED BY THE FEDERAL ENERGY REGULATORY COMMISSION OR THE STATE CORPORATION COMMISSION AND OTHER UTILITY LINE ACTIVITIES UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Based upon an examination of the information submitted by the applicant and in compliance with § 401 of the Clean Water Act as amended (33 USC § 1341) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this VWP general permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of surface waters or fish and wildlife resources.

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to *permanently or temporarily* impact up to one acre of nontidal ~~surface waters, including wetlands or open water~~ and up to 500 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~.

Permittee:

Address:

Activity Location:

Activity Description:

The authorized activity shall be in accordance with this cover page, Part I-Special Conditions, Part II- Compensation, Monitoring, and Reporting, and Part III-Conditions Applicable to All VWP Permits, as set forth herein.

Director, Department of Environmental Quality Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes *permanent or temporary* impacts of up to one acre of nontidal ~~surface waters, including wetlands or open water~~ and up to 500 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~ according to the information provided in the approved *and complete* application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either

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a notice of planned change in accordance with 9 VAC 25-670-80 or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~three~~ seven years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP permit requirement (including compensation) has not been completed within ~~three~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application, and no application fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize ~~any~~ adverse ~~impact~~ impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted area. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

7. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in such a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

8. No machinery may enter flowing waters, unless authorized by this VWP general permit.

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude any unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in* these marked ~~areas~~ *are* surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub-shrub or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric,

immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ the time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~, the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ the time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities unless allowed by this permit authorization.

~~[17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters unless allowed by this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.~~

~~18.~~ 17.] If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted steam flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present,

including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands, not to exceed 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a trench drain effect.). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. Minimum compensation requirements.

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-670-70.~~

~~3. For wetlands, compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or~~

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~~preservation, restoration, or enhancement of adjacent riparian buffers.~~

~~4. 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.~~

~~5. 4. For compensation involving the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage or of the fund contribution has been submitted to and received by DEQ.~~

~~6. For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

~~7. 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to any a construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Any Deviations from the approved plan must be submitted and approved in advance by the board.~~

~~8. 6. The final wetlands compensation plan shall include:~~

a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;

b. Location map, including latitude and longitude (to the nearest second) at the center of the site;

c. Summary of the type and acreage of the existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;

d. Grading plan with existing and proposed elevations at one-foot or less contours;

e. Schedule for compensation site construction, including sequence of events with estimated dates;

f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a dry year, and a wet year;

g. Groundwater elevation data for the site, or the ~~proposed~~ location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;

h. Design of water control structures;

i. Planting scheme and schedule, indicating plant species, zonation, and acreage of each vegetation type proposed;

j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of any such species;

k. Erosion and sedimentation control plan;

l. A soil preparation and amendment plan addressing both topsoil and subsoil conditions;

m. A discussion of any structures and features considered necessary for the success of the site;

n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, any sampling points, and, if applicable, reference wetlands;

o. Site access plan;

p. The location and composition of any buffers; and

q. The mechanism for protection of the compensation areas.

9. 7. The final stream compensation plan shall include:

a. The goals and objectives of the compensation plan in terms of replacement of stream functions and ~~value~~ water quality benefits;

b. A location map, including latitude and longitude (to the nearest second) at the center of the site;

c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);

d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;

e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;

f. Riparian buffer plantings, including planting scheme, species, buffer width;

g. Livestock access limiting measures, to the greatest extent possible;

h. A site access plan;

i. An erosion and sedimentation control plan, if appropriate;

j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of a their presence, methods for removal, and the control of any such species;

k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;

l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success

criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;

m. The mechanism for protection of the compensation area; and

n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.

~~40-~~ 8. For final wetland or stream compensation plans, ~~any~~ the vegetation used shall be native species common to the area, shall be suitable for growth in local wetland or [~~stream~~ riparian] conditions, and shall be from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.

~~44-~~ 9. The final wetland or stream compensation plan(s) shall include a mechanism for protection in perpetuity of the compensation site(s) to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final [*compensation*] plan approval. The restrictions, protections, or preservations, or similar instrument shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or any equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of survey or [~~plat~~ final compensation plan] approval.

~~42-~~ 10. All work in permitted impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

~~43-~~ 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation site(s).

~~44-~~ 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetland or stream compensation plan(s).

~~45-~~ 13. Point sources of stormwater runoff shall be prohibited from entering ~~any~~ a wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

~~46-~~ 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

~~47-~~ 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

~~48-~~ 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetlands compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

~~49-~~ 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify the board of any invasive species occurrences DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

~~20-~~ 18. If the wetland or stream compensation area ~~(s) fail~~ fails to meet the specified success criteria in a *particular* monitoring year ~~(with the exception of, other than the final monitoring year)~~, the reasons for this failure shall be determined and a corrective action plan ~~(including proposed actions, a schedule, and monitoring plan)~~ shall be submitted to DEQ for approval with or before that year's monitoring report. The ~~approved~~ corrective action plan shall contain at a minimum the proposed actions, a schedule for those actions, and a monitoring plan, and shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete, as confirmed by DEQ. ~~21-~~ If all success criteria have not been met in the wetland or stream compensation area fails to meet the specified success criteria by the final monitoring year, or if the wetland or stream compensation site area has not met the stated restoration goals, reasons for this failure shall be determined and a corrective action plan, including proposed

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actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (i.e., that corrective actions were successful). The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.

22- 19. The surveyed wetland boundary for the compensation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

23- 20. Herbicides or algicides shall not be used in or immediately adjacent to the compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second, and third months after commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.

b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and then annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities.

With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any changes or deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on the first day of the first complete growing season (monitoring year 1) after wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases, if all success criteria have not been met in the fifth monitoring year, then monitoring shall be required

for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site, or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, weekly monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless authorized in the monitoring plan.

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-670-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate.~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be~~

~~included in the first monitoring report after planting is complete.~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation.~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

~~C. D. Stream compensation, restoration and monitoring.~~

1. Any Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.

2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks, and channel relocation shall be completed in the dry whenever practicable.

3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.

4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.

5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week of completion of activities, and during at least one day of each monitoring year to depict restored conditions.

6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations from the final compensation plans in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream

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compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

8. All stream compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-670-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations and monitoring stations.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

~~e. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.~~

~~f. A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

~~g. Documentation of undesirable plant species and summary of abatement and control measures.~~

~~h. A summary of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.~~

~~j. A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

~~k. Any additional submittals that were approved by DEQ in the final compensation plan.~~

~~D. Impact site construction monitoring.~~

~~1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post construction conditions. Monitoring shall consist of one of the following options:~~

~~a. Photographs shall be taken during construction at the end of the first, second and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas;~~

~~b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas; or~~

~~c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity within the impact areas.~~

~~2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.~~

~~3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.~~

~~4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:~~

~~a. A sampling station shall be located upstream and immediately downstream of the relocated channel.~~

~~b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.~~

~~c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.~~

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

~~E. Reporting.~~

~~1. Written communications required by this VWP general permit shall be submitted to the appropriate Department of Environmental Quality (DEQ) office. The VWP general permit authorization number shall be included on all correspondence.~~

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ ~~not~~ no later than the 10th day of the month following the month in which the monitoring event specified in Part II ~~D-B~~ takes place. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.

b. ~~Properly Photographs~~ labeled photographs ~~(to include with permit number, the photo station number, the photo orientation, the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.).~~ The post-construction photographs shall be submitted within 30 days of documenting ~~post-construction conditions~~. The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in ~~any~~ a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at

least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) *General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.*

(2) *Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.*

(3) *Description of monitoring methods.*

(4) *Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.*

(5) *Evaluation of hydric soils or soils under hydric conditions, as appropriate.*

(6) *Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.*

(7) *Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.*

(8) *Discussion of wildlife or signs of wildlife observed at the compensation site.*

(9) *Comparison of site conditions from the previous monitoring year and reference site.*

(10) *Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged water control devices, or to replace damaged planted vegetation.*

(11) *Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.*

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) *General description of the site including a site location map identifying photo stations and monitoring stations.*

(2) *Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.*

(3) *Description of monitoring methods.*

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(4) An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.

(5) Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.

(6) A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.

(7) Documentation of undesirable plant species and summary of abatement and control measures.

(8) A summary of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.

(10) A corrective action plan, which includes proposed actions, a schedule and monitoring plan.

(11) Additional submittals that were approved by DEQ in the final compensation plan.

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of ~~any~~ a structure are prohibited until approved by DEQ.

8. The permittee shall report ~~any~~ fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All submittals required by this VWP general permit shall contain the following signed certification statement:

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

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

B. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent ~~any~~ impacts in violation of the VWP general permit which may have a reasonable likelihood of adversely affecting human health or the environment.

C. Reopener. This VWP general permit authorization may be reopened to modify its conditions when the circumstances on which the previous VWP general permit authorization was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change since the time the VWP general permit authorization was issued and, thereby, constitute cause for VWP general permit authorization revocation and reissuance.

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

E. Property rights. The issuance of this VWP general permit does not convey ~~any~~ property rights in either real or personal property, or ~~any~~ exclusive privileges, nor does it authorize ~~any~~ injury to private property or ~~any~~ invasion of personal property rights, nor ~~any~~ infringement of federal, state or local laws or regulations.

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1-~~ to enter the permittee's property, public or private, and have access to, inspect and copy any records that must be kept as part of the VWP general permit conditions; ~~2-~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~3-~~ and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee [~~if:~~] *when all of the criteria*

listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.

1. The current permittee notifies the board of the transfer of the title to the facility or property;
2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee permittees~~ containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for compliance with the requirements of any enforcement activities related to the permitted activity; ~~and~~.
3. The board does not notify the ~~existing current~~ and new ~~permittee permittees~~ of its intent to modify or revoke and reissue the VWP general permit authorization within the 15 days.

~~On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance if: ~~(i)~~ *in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.*

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that *the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully compensated;* ~~(ii).~~

2. The project results in less wetland or stream impacts, in which case, compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii).~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv).~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) F.~~

5. Typographical errors need to be corrected. ~~A notice of planned change is not required if the project results in~~

~~additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

J. VWP general permit authorization termination for cause. This VWP general permit authorization is subject to termination for cause by the board after public notice and opportunity for a hearing. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;
2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;
3. The permittee's violation of a special or judicial order; and
4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under ~~9 VAC 25-690-50 A~~ 9 VAC 25-670-50 B [4] *and all compensatory mitigation have been completed; or when the authorized impacts do not occur, or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank.* The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:
 - a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice

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does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities *and any required compensatory mitigation* authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

L. Civil and criminal liability. Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

M. Oil and hazardous substance liability. Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

N. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

O. Duty to provide information.

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, *and* reissuing and terminating the VWP permit *authorization*, or to determine compliance with the VWP permit *authorization*. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include, as appropriate:

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

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

Q. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

FORMS

Department of Environmental Quality Water Division Permit Application Fee *Form* (eff. 7/04).

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (~~rev.~~ eff. 10/04).

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04).

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02).

VA.R. Doc. No. R05-287; Filed June 5, 2006, 12:48 p.m.

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Title of Regulation: 9 VAC 25-680. Virginia Water Protection General Permit for Linear Transportation Projects (amending 9 VAC 25-680-10 through 9 VAC 25-680-100; adding 9 VAC 25-680-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Effective Date: August 1, 2006.

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP3 will expire on October 1, 2006, for general linear transportation projects, and will expire on August 1, 2006, for linear transportation projects of the Virginia Department of Transportation. The revisions include minor changes to improve the processing and coordination of authorizations for the public, DEQ, and other agencies. The VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes; formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; requiring a complete application and compensatory mitigation for impacts to wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants; extending the life of the general permit regulations to 10 years instead of the current five years; extending the permit authorization period to up to seven years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream

impacts, which were previously combined together as "surface waters."

9 VAC 25-680-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas normally possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

"Impacts" means results caused by human-induced activities conducted in surface waters, as specified in § 62.1-44.15:5 D of the Code of Virginia.

"Independent utility" means a test to determine what constitutes a single and complete project. A project is

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considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases are not built can be considered as separate single and complete projects with independent utility.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means 0.00 to 0.49 acre (0 to 21,779 square feet).

"Linear transportation project" means a project for the construction, expansion, modification or improvement of features such as, but not limited to, roadways, railways, trails, bicycle and pedestrians paths, and airport runways and taxiways, including all attendant features both temporary and permanent. Nonlinear features commonly associated with transportation projects, such as, but not limited to, vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars are not included in this definition.

~~*"Less than one-half of an acre" means 0.00 to 0.49 acre (0 to 21,779 square feet).*~~

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanent impacts" ~~are~~ means those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

"Person" means an individual, corporation, partnership, association, ~~government~~ governmental body, municipal corporation, or any other legal entity.

"Riprap" means a layer of *nonerodible* material such as stone or chunks of concrete ~~on an embankment slope for the purpose of preventing erosion.~~

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include tree shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which also has independent utility, as defined in this section. For linear projects, the "single and complete project" (~~i.e.~~ e.g., a single and complete crossing) ~~may but does not always~~ will apply to each crossing of a separate surface water (~~i.e.~~ e.g., a single waterbody) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ program general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR ~~Part 325.325.2(e)(2), and 33 CFR 325.3(b)~~ and that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. [Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.]

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface water, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours ~~and~~, or elevations, such that previous functions and values are restored.

~~*"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.*~~

~~*"Up to 500 linear feet of perennial stream channel" means 0.00 to 500.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.*~~

~~*"Up to 1500 linear feet of nonperennial stream channel" means >0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.*~~

~~*"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).*~~

"Up to one-tenth of an acre" means ~~0.00 to 0.10 acre (0 to 4,356 square feet)~~ or less.

"Up to two acres" means ~~0.00 to 2.00 acres (0 to 87,120 square feet)~~ or less.

"Utility line" means ~~any~~ a pipe or pipeline for the transportation of any gaseous, liquid, ~~liquifiable~~ liquefiable or slurry substance, for any purpose, and ~~any~~ a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-680-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP3 under the VWP permit program regulation to govern impacts related to the construction and maintenance of Virginia Department of Transportation (VDOT) or other linear transportation projects. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. *Authorization, authorization with conditions, or denial by the board shall constitute the VWP general permit action. Each VWP general permit action shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit action is exempt.*

B. The director or his designee may perform any act of the board provided under this chapter except as limited by § 62.1-44.14 of the Code of Virginia.

C. This VWP general permit regulation will become effective on ~~October 1, 2001~~ [~~(insert effective date)~~ August 1, 2006], and will expire on ~~October 1, 2006~~, for general linear transportation projects and will become effective August 1, 2001, and will expire August 1, 2006, for linear transportation projects of the Virginia Department of Transportation [~~(insert date that is 10 years after effective date)~~ August 1, 2016].

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-680-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for a ~~maximum of five~~ seven years.

9 VAC 25-680-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to *permanently or temporarily* impact up to two acres of nontidal ~~surface waters including wetlands or open water and up to 500~~ 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel, bed~~ for linear transportation projects, provided that ~~the applicant submits notification as required in 9 VAC 25-680-50 and 9 VAC 25-680-60, remits the required application processing fee (9 VAC 25-20), complies with the~~

~~limitations and other requirements of 9 VAC 25-680-100, receives approval from the board, and provided that:~~

~~1. The applicant submits notification as required in 9 VAC 25-680-50 and 9 VAC 25-680-60.~~

~~2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.~~

~~3. The applicant complies with the limitations and other requirements of 9 VAC 25-680-100.~~

~~4. The applicant receives approval from the Virginia Department of Environmental Quality.~~

~~5. The applicant shall~~ has not ~~have~~ been required to obtain a VWP individual permit under the VWP permit regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit, or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.

~~6. Impacts, both temporary and permanent, result from a single and complete project, including all attendant features.~~

~~a. Where a road segment (i.e. e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of state waters (several single and complete projects), the board may at its discretion require a VWP individual permit.~~

~~b. For the purposes of this chapter, when an interchange has multiple crossings of state waters, the entire interchange shall be considered the single and complete project.~~

~~7. The stream impact criterion applies to all components of the project, including any structures and stream channel manipulations.~~

~~8. Dredging does not exceed 5,000 cubic yards.~~

~~9. Compensation for unavoidable impacts is provided in the form of any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. For wetlands compensation may incorporate preservation of wetlands, or preservation or restoration of upland buffers adjacent to surface waters, when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation or restoration and enhancement of adjacent riparian buffers accordance with 9 VAC 25-680-70.~~

B. Activities that may be authorized under this VWP general permit include the construction, expansion, modification or improvement of linear transportation crossings (e.g., highways, railways, trails, bicycle and pedestrian paths, and airport runways and taxiways, including all attendant features both temporary and permanent).

C. The board waives the requirement for coverage under a VWP permit for activities that occur in an isolated wetland of minimal ecological value as defined in ~~9 VAC 25-210-10~~ 9 VAC 25-680-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

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D. Receipt of this VWP general permit does not relieve ~~any~~ *the* permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure or structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of the effective date of this regulation, shall constitute coverage under this VWP general permit unless a state ~~programmatic~~ *programmatic* general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-680-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any~~ *a vegetative* stratum: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorizations for coverage under other VWP general permits in order to impact greater than two acres of nontidal ~~surface waters, more wetlands or open water or greater than 500~~ *1,500* linear feet of ~~perennial nontidal stream channel, or more than 1,500 linear feet of nonperennial stream channel bed~~. More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

C. This VWP general permit may not be used to authorize nonlinear features commonly associated with transportation projects, such as, but not limited to, vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars.

D. The activity to impact surface waters shall not have been prohibited by state law or regulations, nor shall it contravene applicable Water Quality Standards (9 VAC 25-260).

E. The board shall deny coverage under this VWP general permit to any applicant conducting activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to ~~adversely~~ *significantly* affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

F. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of ~~any~~ *a* stream.

G. This VWP general permit may not be used for:

1. ~~Any~~ *Construction of a* stormwater management facility ~~that is located~~ in perennial streams or in oxygen- or temperature-impaired waters; (*does not include wetlands*).

2. The construction of an irrigation impoundment on a perennial stream;

3. Any water withdrawal activities;

4. The location of animal feeding operations or waste storage facilities in state waters;

5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam or the work is performed in the dry, or unless approved by DEQ;

6. Return flow discharges from dredge disposal sites;

7. Overboard disposal of dredge materials;

8. Dredging in marinas;

9. Dredging of shellfish areas, submerged aquatic vegetation beds and other highly productive areas;

10. Federal navigation projects;

11. The taking of threatened or endangered species in accordance with the following:

a. As pursuant to § 29.1-564 of the Code of Virginia:—" , the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568."

b. As pursuant to § 29.1-566 of the Code of Virginia and 4 VAC 15-20-130 B and C, the taking, transportation, processing, sale, or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

~~[12. Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete permit application for further consideration by the board.]~~

9 VAC 25-680-50. Notification.

A. Notification to the board will be required prior to commencing construction, as follows:

1. An application for authorization ~~for~~ of proposed, permanent nontidal wetland or open water impacts greater than one-tenth of an acre, or ~~for~~ of proposed permanent nontidal stream channel bed impacts greater than 300 linear feet, shall ~~be submitted via an application that includes~~ include] all information pursuant to 9 VAC 25-680-60 B ~~[. Once permanent impacts exceed these limits, compensatory~~, except for 9 VAC 25-680-60 B 20 when the application is for a Virginia Department of Transportation (VDOT) administered project. VDOT shall provide the information in 9 VAC 25-680-60 B 20 through the VDOT State Environmental Review Process, the National Environmental Policy Act (42 USC § 4321 et seq.) (for federal actions), or the VDOT Geographic Information System. Compensatory] mitigation may be required for all permanent impacts in accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.

2. An application for the authorization of proposed, permanent surface nontidal wetland or open water impacts up to one-tenth of an acre, which may include or of proposed, permanent nontidal stream bed impacts up to 300 linear feet of stream channel, shall be reported submitted ~~[via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20, and 20 21 of 9 VAC 25-680-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.~~ as follows:

a. For a proposed VDOT-administered project that is not subject to subdivision 2 c of this subsection, the application shall include the information required by subdivisions 1 through 8, 13, 15, and 21 of 9 VAC 25-680-60 B. The VDOT Quarterly Reporting of Impacts Less Than One-Tenth Acre application may be used, provided that it contains the required information. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount,

shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.

b. For all other projects that are not subject to subdivision 2 c of this subsection, the application shall include the information required by subdivisions 1 through 9, 13, 15, 20, and 21 of 9 VAC 25-680-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.

c. For any proposed project in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), when such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, the application shall include all of the information required by 9 VAC 25-680-60 B, and documentation that verifies the quantity and type of impacts. Application for a VDOT-administered project shall provide the required information in 9 VAC 25-680-60 B 20 through the VDOT State Environmental Review Process, the National Environmental Policy Act (for federal actions), or the VDOT Geographic Information System. Compensatory mitigation may be required for all permanent impacts, regardless of amount. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.]

B. A Joint Permit Application (JPA) [~~or~~, a] Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) [, or a VDOT Quarterly Reporting of Impacts Less Than One-Tenth Acre] shall serve as an application under this regulation.

C. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of any federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. The applicant may also consult with these agencies prior to submitting an application. Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.

9 VAC 25-680-60. Application.

A. Applications shall be filed with the board as follows:

1. The applicant shall file a complete application, ~~as described~~ in accordance with 9 VAC 25-680-50, for a VWP General Permit Number WP3 for impacts to surface waters from linear transportation projects, which will serve as a notice of intent for coverage under this VWP general permit.

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2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, and telephone number and, if applicable, fax number;

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;

3. The existing VWP permit number (if applicable);

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;

5. The name of the water body or water bodies or receiving stream, as applicable;

6. The hydrologic unit code (HUC) for the project area;

7. The name of the city or county where the project is located;

8. Latitude and longitude (to the nearest second) from a central location within the project limits;

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;

10. (Reserved.);

11. Project plan view. All Plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing and proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water mark, impact limits, location and dimension of all proposed structures in impact areas. *In addition*, cross-sectional or profile sketches, ~~as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.~~

12. Dredge material management plan (for dredging projects only) including plan and cross-section view drawings of the disposal or dewatering area, the dimensions and design of the proposed berm and spillway, and the capacity of the proposed disposal or dewatering site;

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the impact (area of wetland in square feet and acres; area of stream, length of stream, and average width); the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects) and the type of *surface water* impact (*open water; wetlands* according to the Cowardin classification or similar terminology); *or perennial and nonperennial for streams*). *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters/ *and* functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats;

15. A description of the specific on-site measures considered ~~or~~ *and* taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils, including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second;~~ the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund [,] shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact

acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

d. ~~Any applicant~~ Applicants proposing compensation involving contributions to an in-lieu fee fund shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ Applicants proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits;

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall also be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site;

19. The appropriate application processing fee for a VWP permit ~~(in accordance with 9 VAC 25-20-10 et seq.); and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts that include linear feet of stream bed must be converted to an acreage in order to calculate the permit application fee.~~

20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.

~~20-~~ 21. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision

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

C. The application shall be signed in accordance with 9 VAC 25-210-100. If an agent is acting on behalf of an applicant, the applicant shall submit an authorization of the agent that includes the signatures of both the applicant and the agent.

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

E. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and ~~shall may~~ suspend processing the application until such time as the applicant has supplied the ~~missing or deficient~~ requested information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, he shall immediately submit such facts or the correct information. ~~Such~~ A revised application with new information shall be deemed a new application, but shall not require an additional permit application fee. *An incomplete permit application may be administratively withdrawn from processing by the board after 180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.*

9 VAC 25-680-70. Compensation.

A. *In accordance with 9 VAC 25-680-50 A [4], compensatory mitigation may be required for all permanent, nontidal surface water impacts [~~once the notification limits are exceeded~~]. All*

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temporary, nontidal surface water impacts shall be restored to preexisting conditions.

B. Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable [or] practicable [on-site or in-kind compensation] may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is [~~practicable and~~] ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.

~~A. C. For the purposes of this VWP general permit, the board may accept any one or combination of the following as compensation: compensatory mitigation for unavoidable wetland impacts may be met through the following: wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above-mentioned compensation options. Preservation or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

1. Wetland creation.
2. Wetland restoration.
3. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.
4. A contribution to an approved in-lieu fee fund.
5. Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.
6. Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.
7. Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.

D. For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:

1. Stream channel restoration or enhancement.
2. Riparian buffer restoration or enhancement.
3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.
4. A contribution to an approved in-lieu fee fund.
5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.

F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.

~~B. G. Compensation for unavoidable, permanent wetland impacts shall be provided at the following minimum compensation to impact ratios:~~

1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.
2. Impacts to scrub shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.
3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.

~~C. Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable.~~ H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required stream compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.

~~D. I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to impact ratio, as appropriate calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetlands. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for the purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall~~

~~provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-680-80. Notice of planned changes.

A. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

~~A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development [or within logical termini], the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and , the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.~~

~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

~~F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.~~

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation. H. In no case can this authorization be modified to exceed the general permit threshold for use.~~

~~I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B of this section are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.~~

9 VAC 25-680-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-680-50 A [4] and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:
 - a. For project completion:

"I certify under penalty of law that [all the] activities and any required compensatory mitigation authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

- b. For project cancellation:

"I certify under penalty of law that the activities and any required compensatory mitigation authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

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c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-680-95. Transition.

A. All applications received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to [~~insert effective date~~] August 1, 2006,] will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of planned change and all other types of notification that are received by the board prior to [~~insert effective date~~] August 1, 2006,] will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of planned change and all other types of notification to the board that are received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

9 VAC 25-680-100. VWP general permit.

Any applicant whose application has been accepted by the board shall be subject to the following requirements:

VWP General Permit No. WP3

Authorization Effective Date:

Authorization Expiration date:

Authorization Notes(s):

VWP GENERAL PERMIT FOR LINEAR TRANSPORTATION PROJECTS UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Based upon an examination of the information submitted by the applicant and in compliance with § 401 of the Clean Water Act as amended (33 USC § 1341) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this VWP general permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a

significant impairment of state waters or fish and wildlife resources.

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to *permanently or temporarily* impact up to two acres of nontidal ~~surface waters including wetlands or open water and up to 500~~ 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~.

Permittee:

Address:

Activity Location:

Activity Description:

The authorized activity shall be in accordance with this cover page, Part I-Special Conditions, Part II-Compensation, Monitoring, and Reporting, and Part III-Conditions Applicable to All VWP Permits, as set forth herein.

Director, Department of Environmental Quality

Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes *permanent or temporary* impacts of up to two acres of nontidal ~~surface waters including wetlands or open water and up to 500~~ 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~ according to the information provided in the approved *and complete* application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-680-80 or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~five~~ seven years of the date of this authorization.

B. Continuation of Coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP permit requirement (including compensation) has not been completed within ~~five~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application and no application

fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize ~~any~~ adverse ~~impact~~ impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplan culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters, unless otherwise approved by DEQ. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. All denuded areas shall be properly stabilized in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

7. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

8. No machinery may enter flowing waters, unless authorized by this VWP general permit.

9. Heavy equipment in temporarily impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material, to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of ~~any~~ permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude ~~any~~ unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify ~~all~~ contractors that *no activities are to occur in these marked areas* ~~are~~ surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. ~~All~~ Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct his activities in accordance with ~~any~~ *the* time-of-year restrictions recommended by the Virginia Department of Game and Inland Fisheries ~~or~~ , the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ *the* time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

~~[17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters, unless allowed by~~

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~~this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.~~

48- 17.] If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap aprons for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters unless authorized by this permit.

G. Dredging.

1. Dredging depths shall be determined and authorized according to the proposed use and controlling depths outside the area to be dredged.

2. Dredging shall be accomplished in a manner that minimizes disturbance of the bottom and minimizes turbidity levels in the water column.

3. If evidence of impaired water quality, such as a fish kill, is observed during the dredging, dredging operations shall cease and the Department of Environmental Quality (DEQ) shall be notified immediately.

4. Barges used for the transportation of dredge material shall be filled in such a manner to prevent ~~any~~ the overflow of dredged materials.

5. Double handling of dredged material in state waters shall not be permitted.

6. For navigation channels the following shall apply:

a. A buffer of four times the depth of the dredge cut shall be maintained between the bottom edge of the design channel and the channelward limit of wetlands ~~or mean low water~~, or a buffer of 15 feet shall be maintained from the dredged cut and the channelward edge of wetlands ~~or mean low water~~, whichever is greater. This landward limit of buffer shall be flagged and inspected prior to construction.

b. Side slope cuts of the dredging area shall not exceed a two-horizontal-to-one-vertical slope to prevent slumping of material into the dredged area.

7. A dredged material management plan for the designated upland disposal site shall be submitted and approved 30 days prior to initial dredging activity.

8. Pipeline outfalls and spillways shall be located at opposite ends of the dewatering area to allow for maximum retention and settling time. Filter fabric shall be used to line the dewatering area and to cover the outfall pipe to further reduce sedimentation to state waters.

9. The dredge material dewatering area shall be of adequate size to contain the dredge material and to allow for adequate dewatering and settling out of sediment prior to discharge back into state waters.

10. The dredge material dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material, and shall be

properly stabilized prior to placing the dredged material within the containment area.

11. Overtopping of the dredge material containment berms with dredge materials shall be strictly prohibited.

H. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (~~i.e.~~ e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization or compensation, provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and is accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. *Construction and Compensation Requirements, Monitoring and Reporting.*

A. ~~Compensation~~ *Minimum compensation requirements:*

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-680-70.~~

3. ~~For wetlands compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration, or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers.~~

4. 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.

5. 4. For compensation involving the purchase or use of mitigation bank credits *or a contribution to an in-lieu fee fund*, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage *or of the fund contribution* has been submitted to and received by DEQ.

6. ~~For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas~~

~~until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

7. 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to ~~any~~ a construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. ~~Any~~ Deviations from the approved plan must be submitted and approved in advance by the board.

8. 6. The final wetlands compensation plan shall include:

a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;

b. Location map, including latitude and longitude (to the nearest second) at the center of the site;

c. Summary of the type and acreage of existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;

d. Grading plan with existing and proposed elevations at one-foot or less contours;

e. Schedule for compensation site construction, including sequence of events with estimated dates;

f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a dry year, and a wet year;

g. Groundwater elevation data for the site, or the ~~proposed~~ location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;

h. Design of water control structures;

i. Planting scheme and schedule, indicating plant species zonation, and acreage of each vegetation type proposed;

j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of ~~any~~ such species;

k. Erosion and sedimentation control plan;

l. A soil preparation and amendment plan addressing both topsoil and subsoil conditions;

m. A discussion of ~~any~~ structures and features considered necessary for the success of the plan;

n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, ~~any~~ sampling points and, if applicable, reference wetlands;

o. Site access plan;

p. The location and composition of any buffers; and

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q. The mechanism for protection of the compensation areas.

~~9-~~ 7. The final stream compensation plan shall include:

a. The goals and objectives of the compensation plan in terms of replacement of stream functions and ~~values~~ *water quality benefits*;

b. A location map, including latitude and longitude (to the nearest second) at the center of the site;

c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);

d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;

e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;

f. Riparian buffer plantings, including planting scheme, species, buffer width;

g. Livestock access limiting measures, to the greatest extent possible;

h. A site access plan;

i. An erosion and sedimentation control plan, if appropriate;

j. Abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list that includes the proposed procedures for notifying DEQ of their presence, methods for removal, and the control of ~~any~~ such species;

k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;

l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;

m. The mechanism for protection of the compensation area; and

n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.

~~40-~~ 8. For final wetland or stream compensation plans, ~~any~~ *the* vegetation used shall be native species common to the area, shall be suitable for growth in local wetland or [~~stream~~ *riparian*] conditions, and shall be from areas within the same

or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.

~~44-~~ 9. The final wetland or stream compensation plan or plans shall include a mechanism for protection in perpetuity of the compensation sites to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final [~~compensation~~] plan approval. The restrictions, protections, or preservations, or similar instrument, shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of [~~plat~~ *final compensation plan*] approval.

~~42-~~ 10. All work in permitted impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

~~43-~~ 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation sites.

~~44-~~ 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetlands or stream compensation plan(s).

~~45-~~ 13. Point sources of stormwater runoff shall be prohibited from entering ~~any~~ a wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

~~46-~~ 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

~~47-~~ 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

~~14-~~ 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetland compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

~~14-~~ 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

~~20-~~ 18. If the wetland or stream compensation ~~area(s) fail~~ *area fails* to meet the specified success criteria in a particular monitoring year ~~(with the exception of, other than the final monitoring year)~~, the reasons for this failure shall be determined and a corrective action plan ~~(including proposed actions, a schedule, and a monitoring plan)~~ shall be submitted to DEQ for approval with or before that year's monitoring report. ~~The approved corrective action plan shall contain at minimum the proposed actions, a schedule for those actions, and a monitoring plan, and shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete as confirmed by DEQ.~~ *21. If all success criteria have not been met in the wetland or stream compensation area fails to meet the specified success criteria by the final monitoring year, or if the wetland or stream compensation site area has not met the stated restoration goals, reasons for this failure shall be determined and a corrective action plan, including proposed actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (i.e. e.g., that corrective actions were successful). The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.*

~~22-~~ 19. The surveyed wetland boundary for the compensation site shall be based on the results of the hydrology, soils, and

vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

~~23-~~ 20. Herbicides or algicides shall not be used in or immediately adjacent to the compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means only, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second and third months of commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.

b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity with the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall

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report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

~~B~~. C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites, including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on the first day of the first complete growing season (monitoring year 1) after wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured weekly during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts, either from on site or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology

monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan.

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-680-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate.~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation.~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

~~G~~. D. Stream compensation, restoration, and monitoring.

1. ~~Any~~ Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.

2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks and channel relocation shall be completed in the dry whenever practicable.

3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.

4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.

5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week of completion of activities, and during at least one day of each monitoring year to depict restored conditions.

6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. ~~Any~~ Changes or deviations from the final compensation plans in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

8. All stream compensation monitoring reports shall be submitted ~~by December 31 of the monitoring year. The reports shall include, as applicable, the following:~~ *in accordance with 9 VAC 25-680-100 Part II E 6.*

a. ~~General description of the site including a site location map identifying photo stations and monitoring stations.~~

b. ~~Summary of activities completed during the monitoring year.~~

e. ~~Description of monitoring methods.~~

d. ~~An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

e. ~~Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.~~

f. ~~A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

g. ~~Documentation of undesirable plant species and summary of abatement and control measures.~~

h. ~~A summary of wildlife or signs of wildlife observed at the compensation site.~~

i. ~~Comparison of site conditions from the previous monitoring year and reference site, if applicable.~~

j. ~~A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

k. ~~Any additional submittals that were approved by DEQ in the final compensation plan.~~

~~D. Impact site construction monitoring.~~

1. ~~Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post construction conditions. Monitoring shall consist of one of the following options:~~

a. ~~Photographs shall be taken during construction at the end of the first, second and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas; or~~

b. ~~An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas.~~

e. ~~In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity with the impact areas.~~

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~~2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.~~

~~3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.~~

~~4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:~~

~~a. A sampling station shall be located upstream and immediately downstream of the relocated channel.~~

~~b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.~~

~~c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.~~

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

E. Reporting.

1. Written communications required by this VWP general permit shall be submitted to the appropriate DEQ office. The VWP general permit authorization number shall be included on all correspondence.

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ ~~not~~ no later than the 10th day of the month following the month in which the monitoring event specified in Part II ~~D~~ B takes place, unless otherwise specified below. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.

~~b. Properly Photographs labeled photographs (to include with the permit number, the photo station number, the photo orientation, the date and time of the photo, the name of the person taking the photograph, and a brief description, and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post construction photographs shall be submitted within 30 days of documenting post-construction conditions. The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in any a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.~~

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.

(5) Evaluation of hydric soils or soils under hydric conditions, as appropriate.

(6) Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.

(7) Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.

(8) Discussion of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site.

(10) Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged water control devices, or to replace damaged planted vegetation.

(11) Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations and monitoring stations.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.

(5) Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.

(6) A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.

(7) Documentation of undesirable plant species and summary of abatement and control measures.

(8) A summary of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.

(10) A corrective action plan, which includes proposed actions, a schedule and monitoring plan.

(11) Additional submittals that were approved by DEQ in the final compensation plan.

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of any a structure are prohibited until approved by DEQ.

8. The permittee shall report any fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All Submittals required by this VWP general permit shall contain the following signed certification statement:

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

Part III. Conditions Applicable to All VWP General Permits.

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations and toxic standards and prohibitions. Any VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization, termination for cause, VWP general permit authorization, revocation, or denial of a continuation of coverage request.

B. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any impacts in violation of the

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VWP general permit that may have a reasonable likelihood of adversely affecting human health or the environment.

C. Reopener. This VWP general permit authorization may be reopened to modify its conditions when the circumstances on which the previous VWP general permit authorization was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change since the time the VWP general permit authorization was issued and thereby constitute cause for VWP general permit authorization revocation and reissuance.

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

E. Property rights. The issuance of this VWP general permit does not convey ~~any~~ property rights in either real or personal property, or ~~any~~ exclusive privileges, nor does it authorize ~~any~~ injury to private property or ~~any~~ invasion of personal property rights, nor ~~any~~ infringement of federal, state or local laws or regulations.

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1-~~ to enter the permittee's property, public or private, and have access to, inspect and copy ~~any~~ records that must be kept as part of the VWP general permit conditions; ~~2-~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~3-~~ and to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee ~~if:~~ *when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.*

1. The current permittee notifies the board of the transfer of the title to the facility or property.

2. The notice to the board includes a written agreement between the ~~existing current~~ and new ~~permittee~~ *permittees* containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage, or liability, including liability for

compliance with the requirements of ~~any~~ enforcement activities related to the permitted activity; ~~and.~~

3. The board does not notify the ~~existing current~~ and new ~~permittee~~ *permittees* of its intent to modify or revoke and reissue the VWP general permit authorization within 15 days.

~~On the date of the VWP general permit authorization transfer, the transferred VWP general permit shall be as fully effective as if it had been issued directly to the new permittee.~~

I. Notice of planned change. Authorization under this VWP general permit may be modified subsequent to issuance ~~if:~~ ~~(i)~~ *the in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.*

1. The permittee determines that additional permanent wetland, *open water*, or stream impacts are necessary, provided that *the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and*, the cumulative increase in stream *bed* impacts is not greater than ~~50~~ *100* linear feet, and ~~provided that~~ the additional impacts are fully compensated: ~~(ii) the.~~

2. *The project results in less wetland or stream impacts, in which case compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals;* ~~(iii) there.~~

3. *There is a change in the project plans that does not result in a change in project impacts;* ~~(iv) there.~~

4. *There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; or* ~~(v) typographical F.~~

5. *Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.*

J. VWP general permit authorization termination for cause. This VWP general permit authorization is subject to termination for cause by the board after public notice and opportunity for a hearing. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination by the board that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under ~~9 VAC 25-690-50~~ 9 VAC 25-680-50 A [4] and all compensatory mitigation have been completed, or when the authorized impacts will not occur, or when a planned change occurs that involves substituting a specified, approved mitigation bank or banks with another specified, approved mitigation bank. The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities and any required compensatory mitigation authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume

the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ the activities or the required compensatory mitigation authorized by a VWP general permit have been completed (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

L. Civil and criminal liability. Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

M. Oil and hazardous substance liability. Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

N. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

O. Duty to provide information.

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, and reissuing and terminating the VWP permit authorization, or to determine compliance with the VWP permit authorization. The permittee shall also furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for

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continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include, as appropriate:

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

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

Q. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after August 1, 2001, for linear transportation projects of the Virginia Department of Transportation, or on and after October 1, 2001 for all other projects, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

b. Filling or dumping;

c. Permanent flooding or impounding; or

d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

NOTICE: The forms used in administering 9 VAC 25-680, Virginia Water Protection General Permit for Linear Transportation Projects, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Department of Environmental Quality Water Division Permit Application Fee (eff. 7/04).

Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (eff. 10/04).

Joint Permit Application for Projects in Tidewater, Virginia (eff. 10/04).

Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application (eff. 10/02).

Quarterly Reporting of Impacts Less than One-Tenth Acre (insert reporting period) Statewide (eff. 4/03).

VA.R. Doc. No. R05-288; Filed June 5, 2006, 12:48 p.m.

* * * * *

Title of Regulation: 9 VAC 25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities (amending 9 VAC 25-690-10 through 9 VAC 25-690-100; adding 9 VAC 25-690-95).

Statutory Authority: §§ 62.1-44.15 and 62.1-44.15:5 of the Code of Virginia; § 401 of the Clean Water Act (33 USC § 1251 et seq.).

Effective Date: August 1, 2006.

Agency Contact: Catherine M. Harold, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4047, FAX (804) 698-4347, or e-mail cmharold@deq.virginia.gov.

Summary:

Virginia Water Protection (VWP) General Permit WP4 will expire on October 1, 2006. The revisions include minor changes to improve the processing and coordination of authorizations for the public, DEQ, and other agencies. The VWP general permit regulations generally reduce the permitting burden to the public and minimize the amount of agency duplication in processing permit authorizations and it is in the interest of all to continue to provide this level of service through the renewal of this general permit.

The substance of the revisions include the addition and deletion of definitions; minor grammatical changes; formatting, consolidating and reordering of text to improve readability; clarification of existing requirements; requiring a complete application and compensatory mitigation for impacts to wetlands, open waters and streams that are protected by deed restrictions or similar protective covenants; extending the life of the general permit regulations to 10 years instead of the current five years; extending the permit authorization period to up to seven years; reiteration of provisions in the main VWP regulation for purposes of emphasis; and amending the thresholds of coverage for wetlands and open waters and stream impacts, which were previously combined together as "surface waters."

9 VAC 25-690-10. Definitions.

The words and terms used in this regulation shall have the meanings defined in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) and the Virginia Water Protection (VWP) Permit Regulation (9 VAC 25-210) unless the context clearly indicates otherwise or unless otherwise indicated below.

"Bank protection" means measures employed to stabilize channel banks and combat existing erosion problems. Such measures may include the construction of riprap revetments, sills, rock vanes, beach nourishment, breakwaters, bulkheads, groins, spurs, levees, ~~marsh~~ marsh toe stabilization, anti-scouring devices, and submerged sills.

"Bioengineering method" means a biological measure incorporated into a facility design to benefit water quality and minimize adverse effects to aquatic resources, to the maximum extent practicable, for long-term aquatic resource protection and improvement.

"Channelization" means the alteration of a stream channel by widening, deepening, straightening, cleaning or paving certain areas.

~~"Conversion" means changing one type of surface water to another type of surface water, either permanently or temporarily. The permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation.~~

"Cross-sectional drawing" means a graph or plot of ground elevation across a waterbody or a portion of it, usually along a line perpendicular to the waterbody or direction of flow.

"Emergent wetland" means a class of wetlands characterized by erect, rooted, herbaceous plants growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content, excluding mosses and lichens. This vegetation is present for most of the growing season in most years and is usually dominated by perennial plants.

"FEMA" means Federal Emergency Management Agency.

"Forebay" means a deeper area at the upstream end of a stormwater management facility that would be maintained through excavation.

"Forested wetland" means a class of wetlands characterized by woody vegetation that is six meters (20 feet) tall or taller. These areas typically possess an overstory of trees, an understory of trees or shrubs, and an herbaceous layer.

"Greater than one acre" means more than 1.00 acre (43,560 square feet).

"Histosols" means organic soils that are often called mucks, peats, or mucky peats. The list of histosols in the Commonwealth includes, but is not limited to, the following soil series: Back Bay, Belhaven, Dorovan, Lanexa, Mattamuskeet, Mattan, Palms, Pamlico, Pungo, Pocaty, and Rappahannock. Histosols are identified in the Hydric soils list generated by United States Department of Agriculture Natural Resources Conservation Service.

"Impacts" means results caused by human-induced activities conducted in surface waters, as specified in § 62.1-44.15:5 D of the Code of Virginia.

"Independent utility" means a test to determine what constitutes a single and complete project. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a ~~multi-phase~~ *phased development* project that depend upon other phases of the project do not have independent utility. ~~Phases~~ *Portions* of a *phased development* project that would be constructed even if the other phases are not built can be considered as separate single complete projects with independent utility.

"In-stream mining" means operations that remove accumulated sand, gravel, and mineral deposits directly from stream channels using equipment such as, but not limited to, hydraulic dredges, clamshell dredges, or draglines for the sole purpose of processing and selling the material. In-stream mining does not include dredging activities, whose main purpose is to maintain channels and harbors for navigation, nor does it include the recovery of spilled material, such as sand, gravel, and aggregate, that was inadvertently spilled into a waterway during loading activities.

"Isolated Wetland of Minimal Ecological Value (IWOMEV)" means a wetland that (i) does not have a surface water connection to other state waters; (ii) is less than one-tenth of an acre in size; (iii) is not located in a Federal Emergency Management Agency designated 100-year floodplain; (iv) is not identified by the Virginia Natural Heritage Program as a rare or state significant natural community; (v) is not forested; and (vi) does not contain listed federal or state threatened or endangered species.

"Less than one-half of an acre" means ~~0.00 to~~ 0.49 acre (~~0 to~~ 21,779 square feet) or less.

"Open water" means an area that, during a year with normal patterns of precipitation, has standing water for sufficient duration to establish an ordinary high water mark. The term "open water" includes lakes and ponds but does not include ephemeral waters, stream beds, or wetlands.

"Ordinary high water" or "ordinary high water mark" means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter and debris; or other appropriate means that consider the characteristics of the surrounding areas.

"Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

"Permanent impacts" ~~are~~ *means* those impacts to surface waters, including wetlands, that cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland.

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"Person" means an individual, corporation, partnership, association, ~~government~~ governmental body, municipal corporation, or any other legal entity.

"Phased development" means more than one project proposed for a single piece of property or an assemblage of contiguous properties under consideration for development by the same person, or by related persons, that will begin and be completed at different times. Depending on the relationship between the projects, a phased development may be considered a single and complete project or each project may be considered a single and complete project, if each project has independent utility, as defined in this subsection.

"Recreational facility" means a facility that is integrated into the natural landscape and does not substantially change preconstruction grades or deviate from natural landscape contours.

"Riprap" means a layer of *nonerodible* material such as stone or chunks of concrete ~~on an embankment slope for the purpose of preventing erosion.~~

"Scrub-shrub wetland" means a class of wetlands dominated by woody vegetation less than six meters (20 feet) tall. The species include true shrubs, young trees, and trees or shrubs that are small or stunted because of environmental conditions.

"Single and complete project" means the total project proposed or accomplished by a person ~~and~~, which also has independent utility, as defined in this section. For linear projects, the "single and complete project" (~~i.e.~~ e.g., a single and complete crossing) ~~may but does not always will~~ apply to each crossing of a separate surface water (~~i.e.~~ e.g., a single waterbody) and to multiple crossings of the same waterbody at separate and distinct locations. Phases of a project that have independent public and economic utility may each be considered single and complete.

"State ~~programmatic~~ program general permit (SPGP)" means a general permit issued by the Department of the Army in accordance with 33 USC 1344(e), 33 CFR ~~Part 325~~ 325.2(e)(2), and 33 CFR 325.3(b) and that is founded on a state program ~~and~~. The SPGP is designed to avoid duplication between the federal and state programs.

"Stream bed" means the substrate of a stream, as measured between the ordinary high water marks along a length of stream. The substrate may consist of organic matter, bedrock or inorganic particles that range in size from clay to boulders, or a combination of both. Areas contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed. [~~Ditches, swales, and open water are not considered to be stream bed for the purposes of this regulation.~~]

"Surface waters" means all state waters that are not ground water as defined in § 62.1-255 of the Code of Virginia.

"Temporary impacts" are those impacts to surface waters, including wetlands, that do not cause a permanent alteration of the physical, chemical, or biological properties of the surface waters, or of the functions and values of a wetland. Temporary impacts include activities in which the ground is restored to its preconstruction conditions, contours ~~and~~, or

elevations, such that previous functions and values are restored.

~~"Up to 300 linear feet of stream channel" means >0.00 to 300.00 linear feet of any stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 500 linear feet of stream perennial channel" means 0.00 to 500.00 linear feet of perennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to 1500 linear feet of nonperennial stream channel" means >0.00 to 1500.00 linear feet of nonperennial stream, rounded to the second decimal place, as measured along the center of the main channel of the stream segment.~~

~~"Up to one acre" means 0.00 to 1.00 acre (0 to 43,560 square feet).~~

~~"Up to one-tenth of an acre" means 0.00 to 0.10 acre (0 to 4,356 square feet) or less.~~

~~"Up to two acres" means 0.00 to 2.00 acres (0 to 87,120 square feet) or less.~~

"Utility line" means ~~any~~ a pipe or pipeline for the transportation of ~~any~~ a gaseous, liquid, ~~liquifiable~~ liquefiable or slurry substance, for any purpose, and ~~any~~ a cable, line, or wire for the transmission for any purpose of electrical energy, telephone, and telegraph messages and radio and television communication. The term utility line does not include activities which drain a surface water to convert it to an upland, such as drainage tiles or french drains; however, it does apply to pipes conveying drainage from another area.

9 VAC 25-690-20. Purpose; delegation of authority; effective date of VWP general permit.

A. The purpose of this regulation is to establish VWP General Permit Number WP4 under the VWP permit program regulation to govern *permanent and temporary* impacts related to the construction and maintenance of development activities, and activities directly associated with aggregate mining (~~i.e.~~ e.g., sand, gravel, and crushed or broken stone); hard rock/mineral mining (~~i.e.~~ e.g., metalliferous ores); and surface coal, natural gas, and coalbed methane gas mining, as authorized by the Virginia Department of Mines, Minerals and Energy. Applications for coverage under this VWP general permit shall be processed for approval, approval with conditions, or denial by the board. *Authorization, authorization with conditions, or denial by the board shall follow all provisions in the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), except for the public comment and participation provisions, from which each VWP general permit authorization, authorization with conditions, or denial is exempt.*

B. The director or his designee may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This VWP general permit regulation will become effective on ~~October 1, 2004~~ [~~insert effective date~~] August 1, 2006],

and will expire on ~~October 1, 2006~~ [~~insert date that is 10 years after effective date~~] ~~August 1, 2016~~].

D. Authorization to impact surface waters under this VWP general permit is effective upon compliance with all the provisions of 9 VAC 25-690-30. Notwithstanding the expiration date of this general permit regulation, authorization to impact surface waters under this VWP general permit will continue for ~~a maximum of five~~ seven years.

9 VAC 25-690-30. Authorization to impact surface waters.

A. Any person governed by this VWP general permit is authorized to ~~permanently or temporarily~~ impact up to two acres of nontidal ~~surface waters, including wetlands or open water~~ and up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel and up to 1,500 linear feet of nonperennial stream channel bed~~ for general development ~~and certain mining~~ activities, provided that ~~the applicant submits notification as required in 9 VAC 25-690-50 and 9 VAC 25-690-60, remits the required application processing fee (9 VAC 25-20), complies with the limitations and other requirements of 9 VAC 25-690-100, receives approval from the board, and provided that:~~

~~1. The applicant submits notification as required in 9 VAC 25-690-50 and 9 VAC 25-690-60.~~

~~2. The applicant remits the required application processing fee in accordance with 9 VAC 25-20.~~

~~3. The applicant complies with the limitations and other requirements of 9 VAC 25-690-100.~~

~~4. The applicant receives approval from the Virginia Department of Environmental Quality.~~

~~4-~~ 5. The applicant ~~shall~~ has not ~~have~~ been required to obtain a VWP individual permit under the VWP permit program regulation (9 VAC 25-210) for the proposed project impacts. The applicant, at his discretion, may seek a VWP individual permit, or coverage under another applicable VWP general permit, in lieu of coverage under this VWP general permit.

~~2-~~ 6. Impacts, both temporary and permanent, result from a single and complete project including all attendant features.

a. Where a road segment (~~i.e.~~ e.g., the shortest segment of a road with independent utility that is part of a larger project) has multiple crossings of surface waters (several single and complete projects), the board may, at its discretion, require a VWP individual permit.

b. For the purposes of this chapter, when an interchange has multiple crossings of surface waters, the entire interchange shall be considered the single and complete project.

~~3-~~ 7. The stream impact criterion applies to all components of the project, including ~~any~~ structures and stream channel manipulations.

~~4-~~ 8. Dredging does not exceed 5,000 cubic yards.

~~5-~~ 9. Compensation for unavoidable impacts is provided in the form of ~~any one or combination of the following: creation, restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. For wetlands,~~

~~compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration or mitigation bank credits. For other surface waters, compensation may incorporate preservation and enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers accordance with 9 VAC 25-690-70.~~

B. Activities that may be authorized under this VWP general permit include the following:

1. Residential, commercial, institutional. The construction or expansion of building foundations, building pads and attendant features for residential, commercial and institutional development activities.

a. Residential developments include both single and multiple units.

b. Commercial developments include, but are not limited to, retail stores, industrial facilities, restaurants, business parks, office buildings and shopping centers.

c. Institutional developments include, but are not limited to, schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship.

d. Attendant features include, but are not limited to, roads, parking lots, garages, yards, utility lines, stormwater management facilities, and recreation facilities (such as playgrounds, playing fields and golf courses). Attendant features must be necessary for the use and maintenance of the structures.

2. Recreational facilities. The construction or expansion of recreational facilities and small support facilities.

a. Recreational facilities include, but are not limited to, hiking trails, bike paths, horse paths, nature centers, and campgrounds (but not trailer parks). Boat ramps (concrete or open-pile timber), boathouses, covered boat lifts, mooring piles and dolphins, fender piles, camels (wooden floats serving as fenders alongside piers), and open-pile piers (including floating piers, travel-lift piers, etc.) associated with recreational facilities are also included.

b. Recreational facilities do not include as a primary function the use of motor vehicles, buildings or impervious surfaces.

c. Golf courses and ski area expansions may qualify as recreational facilities provided the construction of the proposed facility does not result in a substantial deviation from the natural contours and the facility is designed to minimize adverse effects on state waters and riparian areas. Measures that may be used to minimize adverse effects on waters and riparian areas include the implementation of integrated pest management plans, adequate stormwater management, vegetated buffers, and fertilizer management plans.

d. Small support facilities are authorized provided they are directly related to the recreational activity. Small support facilities include, but are not limited to, maintenance storage buildings and stables.

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e. The following do not qualify as recreational facilities: hotels, restaurants, playing fields (e.g., baseball, soccer or football fields), basketball and tennis courts, racetracks, stadiums, arenas or new ski areas.

f. The recreational facility must have an adequate water quality management plan, such as a stormwater management plan, to ensure that the recreational facility results in no substantial adverse effects to water quality.

3. Stormwater management facilities. The construction, maintenance, and excavation of stormwater management facilities; the installation and maintenance of water control structures, outfall structures, and emergency spillways; and the maintenance dredging of existing stormwater management facilities.

a. Stormwater management facilities include stormwater ponds and facilities, detention basins, retention basins, and other facilities designed to reduce pollutants in stormwater runoff.

b. The stormwater management facility must:

(1) To the maximum extent practicable, be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity and flow rates);

(2) Not permanently restrict or impede the passage of normal or expected high flows, unless the primary purpose of the facility is to impound waters;

(3) Withstand expected high flows;

(4) To the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and not increase water flows from the project site, relocate water, or redirect flow beyond preconstruction conditions;

(5) To the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the facility is part of a larger system designed to manage water flows; ~~and~~.

(6) Be designed using best management practices (BMPs) and watershed protection techniques. Examples of such BMPs are described in the *Virginia Stormwater Management Handbook* and include, but are not limited to, forebays, vegetated buffers, bioengineering methods, and siting considerations to minimize adverse effects to aquatic resources.

c. Maintenance excavation shall be in accordance with the facility maintenance plan and shall not exceed the original contours of the facility as approved and constructed.

4. Mining facilities. The construction or expansion of mining facilities and attendant features for a single and complete project. This general permit may not be used to authorize impacts from in-stream activities as defined in 9 VAC 25-690-10.

a. Mining facilities include activities directly associated with aggregate mining (~~i.e.~~ e.g., sand, gravel, and crushed or broken stone); hard rock/mineral mining (~~i.e.~~ e.g., metalliferous ores); and surface coal, natural gas, and coalbed

methane gas mining, as authorized by the Virginia Department of Mines, Minerals, and Energy.

b. Attendant features are authorized provided they are directly related to the mining facility, and include, but are not limited to, access road construction, parking lots, offices, maintenance shops, garages, and stormwater management facilities.

c. Both direct impacts (~~i.e.~~ e.g., footprints of all fill areas, road crossings, sediment ponds, and stormwater management facilities; mining through state waters; stockpile of overburden, and excavation) and indirect impacts (~~i.e.~~ e.g., diversion of surface water and reach of state waters affected by sediment pond pool and sediment transport) shall be considered when issuing an authorization under this general permit.

C. The board waives the requirement for coverage under a VWP general permit for activities that occur in an isolated wetland of minimal ecological value, as defined in ~~9-VAC-25-210-10~~ 9 VAC 25-690-10. Any person claiming this waiver bears the burden to demonstrate that he qualifies for the waiver.

D. Receipt of this VWP general permit does not relieve ~~any~~ *the* permittee of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

E. In issuing this VWP general permit, the board has not taken into consideration the structural stability of the proposed structure of structures.

F. Coverage under a nationwide or regional permit promulgated by the U.S. Army Corps of Engineers (USACE), and for which the board has issued § 401 certification existing as of ~~October 1, 2004~~ [~~the effective date of this regulation~~ August 1, 2006], shall constitute coverage under this VWP general permit unless a state ~~programmatic~~ *programmatic* general permit is approved for the covered activity or impact. Notwithstanding any other provision, activities authorized under a nationwide or regional permit promulgated by the USACE and certified by the board in accordance with 9 VAC 25-210-130 do not need to obtain coverage under this VWP general permit unless a state programmatic general permit is approved for the covered activity or impact.

G. Coverage under a permit issued by the Department of Mines, Minerals and Energy under the Virginia Coal Surface Mining Control and Reclamation Act, Chapter 19 (§ 45.1-226 et seq.) of Title 45.1 of the Code of Virginia, where such permit authorizes activities that may be permitted by this regulation and contains a mitigation plan for the impacts from the mining activities, shall also constitute coverage under this VWP general permit.

H. When the board determines on a case-by-case basis that concerns for water quality and the aquatic environment so indicate, the board may require individual applications and VWP individual permits rather than approving coverage under this VWP general permit.

9 VAC 25-690-40. Exceptions to coverage.

A. Authorization for coverage under this VWP general permit will not apply in the following areas:

1. Wetlands composed of 10% or more of the following species (singly or in combination) in ~~any a vegetative stratum~~: Atlantic white cedar (*Chamaecyparis thyoides*), bald cypress (*Taxodium distichum*), water tupelo (*Nyssa aquatica*), or overcup oak (*Quercus lyrata*). Percentages shall be based upon either basal area or percent areal cover in the area of impact.

2. Wetlands underlain by histosols.

3. Surface waters where the proposed activity will impact federal or state listed or proposed threatened or endangered species or proposed or designated critical habitat.

B. Authorization for coverage under this VWP general permit cannot be used in combination with authorization for coverage under other VWP general permits in order to impact greater than two acres of nontidal ~~surface waters, more wetlands or open water or greater than 500 1,500 linear feet of perennial nontidal stream channel, or more than 1,500 linear feet of nonperennial stream channel bed.~~ More than one authorization for coverage under this VWP general permit for a single and complete project is prohibited, except when the cumulative impact to surface waters does not exceed the limits specified here.

C. This VWP general permit cannot be used for ~~any an~~ activity in a phased development which would cause the aggregate total loss of nontidal ~~surface waters wetlands or open water~~ in the subdivision to exceed two acres, or ~~more than 500 to exceed 1,500 linear feet of perennial nontidal stream channel, or more than 1,500 linear feet of nonperennial stream channel bed.~~

D. The activity to impact surface waters shall not have been prohibited by state law or regulations, nor shall it contravene applicable Water Quality Standards (9 VAC 25-260).

E. The board shall deny coverage under this VWP general permit to any applicant for activities that cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to adversely significantly affect aquatic life, or for activities that together with other existing or proposed impacts to wetlands will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

F. This VWP general permit does not authorize activities that cause more than minimal changes to the peak hydraulic flow characteristics, that significantly increase flooding, or that cause more than minimal degradation of the water quality of any a stream.

G. This VWP general permit may not be used for:

1. ~~Any Construction of a stormwater management facility that is located~~ in perennial streams or in waters designated as oxygen- or temperature-impaired; *(does not include wetlands).*
2. The construction of an irrigation impoundment on a perennial stream;
3. Any water withdrawal activities;

4. The location of animal feeding operations or waste storage facilities in state waters;

5. The pouring of wet concrete or the use of tremie concrete or grout bags in state waters, unless the area is contained within a cofferdam and the work is performed in the dry;

6. Return flow discharges from dredge disposal sites;

7. Overboard disposal of dredge materials;

8. Dredging in marinas;

9. Dredging of shellfish areas, submerged aquatic vegetation beds or other highly productive areas;

10. Federal navigation projects;

11. The construction of new ski areas; ~~and.~~

12. The taking of threatened or endangered species in accordance with the following:

a. As pursuant to § 29.1-564 of the Code of Virginia the taking, transportation, processing, sale or offer for sale within the Commonwealth of any fish or wildlife appearing on any list of threatened or endangered species published by the United States Secretary of the Interior pursuant to the provisions of the federal Endangered Species Act of 1973 (P.L. 93-205), or any modifications or amendments thereto, is prohibited except as provided in § 29.1-568 of the Code of Virginia.

b. As pursuant to § 29.1-566 of the Code of Virginia and 4VAC15-20-130 B and C, the taking, transportation, processing, sale or offer for sale within the Commonwealth of any state-listed endangered or threatened species is prohibited except as provided in § 29.1-568 of the Code of Virginia.

~~[13. Proposed activities in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), where such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, and where the proposed activities incur up to 1/10 acre of wetland or open water impacts or up to 300 linear feet of stream bed impacts. Where the proposed activities in protected areas impact greater than 1/10 acre wetlands or open water, or greater than 300 linear feet of stream bed, the applicant may submit a full and complete individual permit application for further consideration by the board.]~~

9 VAC 25-690-50. Notification.

A. Notification to the board will be required prior to commencing construction as follows:

1. An application for authorization ~~for~~ of proposed, permanent nontidal wetland or open water impacts greater than one-tenth of an acre, or ~~for~~ of proposed permanent nontidal stream channel bed impacts greater than 300 linear feet, shall ~~[be submitted via an application that includes include]~~ all information pursuant to 9 VAC 25-690-60 B. ~~[Once permanent impacts exceed these limits,]~~ Compensatory mitigation may be required for all permanent impacts in

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accordance with Parts I, II, and III of this VWP general permit regulation. All temporary impacts shall be restored to preexisting conditions, as per Parts I, II, and III of this VWP general permit regulation.

2. ~~An application for the authorization of proposed, permanent surface nontidal wetland or open water impacts up to one-tenth of an acre, which may include or of proposed, permanent nontidal stream bed impacts up to 300 linear feet of stream channel, shall be reported submitted [via an application that includes only the following information: subdivisions 1 through 8, 9, 13, 15, 20 and 20-21 of 9 VAC 25-690-60 B, and documentation that verifies the quantity and type of impacts. If permanent impacts remain below these limits, compensatory mitigation is not required for permanent impacts. All temporary impacts shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation. as follows:~~

a. ~~For projects that are not subject to subdivision 2 b of this subsection, the application shall include the information required by subdivisions 1 through 9, 13, 15, 20, and 21 of 9 VAC 25-690-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts once the notification limits of one-tenth acre wetlands or open water, or 300 linear feet of stream bed, are exceeded. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.~~

b. ~~For any proposed project in wetlands, open water, streams, or compensatory mitigation sites that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (hereafter protected areas), when such restriction, easement, covenant, or instrument is the result of a federal or state permit action and is specific to activities in wetlands and compensatory mitigation sites, the application shall include all of the information required by 9 VAC 25-690-60 B, and documentation that verifies the quantity and type of impacts. Compensatory mitigation may be required for all permanent impacts, regardless of amount. All temporary impacts, regardless of amount, shall be restored to preexisting conditions, as per Parts I and III of this VWP general permit regulation.]~~

B. A Joint Permit Application (JPA) or Virginia Department of Transportation Interagency Coordination Meeting Joint Permit Application (VDOT IACM JPA) shall serve as an application under this regulation.

C. The board will determine whether the proposed activity requires coordination with the United States Fish and Wildlife Service, the Virginia Department of Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Game and Inland Fisheries regarding the presence of any federal or state proposed or listed threatened and endangered species or proposed or designated critical habitat. Based upon consultation with these agencies, the board may deny coverage under this general permit. *The applicant may also consult with these agencies prior to submitting an application.*

Species or habitat information that the applicant provides will assist DEQ in reviewing and processing the application.

9 VAC 25-690-60. Application.

A. Applications shall be filed with the board as follows:

1. The applicant shall file a complete application, ~~as described in accordance with 9 VAC 25-690-50 for a VWP general permit number WP4 for impacts to surface waters from development and certain mining activities, which will serve as a notice of intent for coverage under this VWP general permit.~~

2. The VDOT may use its monthly IACM process for submitting applications.

B. The required application shall contain the following information, if applicable to the project:

1. The applicant's name, mailing address, telephone number and, if applicable, fax number;

2. The authorized agent's (if applicable) name, mailing address, telephone number and, if applicable, fax number and electronic mail address;

3. The existing VWP permit number (if applicable);

4. The name of the project, narrative description of project purpose, and a description of the proposed activity in surface waters;

5. The name of the water body or water bodies or receiving stream, as applicable;

6. The hydrologic unit code (HUC) for the project area;

7. The name of the city or county where the project is located;

8. Latitude and longitude (to the nearest second) from a central location within the project limits;

9. A detailed location map (e.g., a United States Geologic Survey topographic quadrangle map) of the project area, including the project boundary. The map shall be of sufficient detail such that the site may be easily located for site inspection;

10. (Reserved.);

11. Project plan view. ~~All~~ plan view sketches shall include, at a minimum, north arrow, scale, existing structures, existing contours, proposed contours (if available), limit of surface water areas, direction of flow, ordinary high water, impact limits, and location and dimension of all proposed structures in impact areas. *In addition, cross-sectional or profile sketches, as appropriate, with the above information, shall may be required as appropriate to demonstrate minimization of impacts; detail impact areas.*

12. Dredge material management plan (for dredging projects only) including plan and cross-section view drawings of the disposal or dewatering area, the dimensions and design of the proposed berm and spillway, and the capacity of the proposed disposal or dewatering site;

13. Surface water impact information (wetlands, streams, or open water) for both permanent and temporary impacts, including a description of the impact, the areal extent of the

impact (area of wetland in square feet and acres; area of stream, length of stream, and average width); the location (latitude and longitude at the center of the impact, or at the center of each impact for linear projects); and the type of surface water impact (*open water*; *wetlands* according to the Cowardin classification or similar terminology; or *perennial and nonperennial for streams*);. *The board encourages applicants to coordinate the determination of perennial or nonperennial streams with the appropriate local government agency in Tidewater Virginia.*

14. Functional values assessment for impacts to wetlands greater than one acre, which shall consist of a summary of field observations of the existing wetland functions and values and an assessment of the impact that the project will have on these functions and values. The following parameters/ and functions shall be directly addressed: surrounding land uses and cover types; nutrient, sediment, and pollutant trapping; flood control and flood storage capacity; erosion control and shoreline stabilization; groundwater recharge and discharge; aquatic and wildlife habitat; and unique or critical habitats;.

15. A description of the specific on-site measures considered ~~or~~ and taken during project design and development both to avoid and minimize impacts to surface waters to the maximum extent practicable;.

16. A conceptual plan for the intended compensation for unavoidable impacts, including:

a. For wetlands, the conceptual compensation plan shall include: the goals and objectives in terms of replacement of wetland acreage and function; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including latitude and longitude (to the nearest second) at the center of the site; a description of the surrounding land use; a hydrologic analysis, including a draft water budget based on expected monthly inputs and outputs which will project water level elevations for a typical year, a dry year, and a wet year; groundwater elevation data, if available, or the proposed location of groundwater monitoring wells to collect these data; a map for existing surface water areas on the proposed site or sites, including a wetland delineation confirmation for any existing wetlands; a conceptual grading plan; a conceptual planting scheme, including suggested plant species and zonation of each vegetation type proposed; and a description of existing soils including general information on topsoil and subsoil conditions, permeability, and the need for soil amendments.

b. For streams, the conceptual compensation plan shall include: the goals and objectives in terms of water quality benefits and replacement of stream functions; a detailed location map (e.g., a United States Geologic Survey topographic quadrangle map), including the latitude and longitude ~~and the hydrologic unit code (HUC) at the center of the site to the nearest second~~; the proposed stream segment restoration locations, including plan view and cross-section sketches; the stream deficiencies that need to be addressed; the proposed restoration measures to be employed, including channel measurements, proposed design flows and types of instream structures; and reference stream data, if available.

c. Applicants proposing to compensate off-site, including purchase or use of mitigation bank credits, or contribution to an in-lieu fee fund [,] shall submit an evaluation of the feasibility of on-site compensation. If on-site compensation is practicable, applicants shall provide documentation as to why the proposed off-site compensation is ecologically preferable. The evaluation shall include, but not be limited to, the following assessment criteria: water quality benefits, hydrologic source, hydrologic regime, watershed, surface water functions and values, vegetation type, soils, impact acreage, distance from impacts, timing of compensation versus impacts, acquisition, constructability, and cost.

d. ~~Any applicant~~ Applicants proposing compensation involving contributions to in-lieu fee programs shall state such as the conceptual compensation plan. Written documentation of the willingness of the entity to accept the donation and documentation of how the amount of the contribution was calculated shall be submitted prior to issuance of this general permit authorization.

e. ~~Any applicant~~ Applicants proposing compensation involving the purchase or use of mitigation banking credits shall include as their conceptual compensation plan:

(1) The name of the proposed mitigation bank and the HUC in which it is located;

(2) The number of credits proposed to be purchased or used; and

(3) Certification from the bank owner of the availability of credits;.

17. A delineation map must be provided of the geographic area of a delineated wetland for all wetlands on the site, in accordance with 9 VAC 25-210-45, including the wetlands data sheets. *The delineation map shall also include the location of streams, open water, and the approximate limits of Chesapeake Bay Resource Protection Areas (RPAs), as other state or local requirements may apply if the project is located within an RPA.* Wetland types shall be noted according to their Cowardin classification or similar terminology. A copy of the USACE delineation confirmation, or other correspondence from the USACE indicating their approval of the wetland boundary, shall ~~also~~ be provided at the time of application, or if not available at that time, as soon as it becomes available during the VWP permit review. ~~The delineation map shall also include the location of streams, open water and other surface waters on the site. The approximate limits of any Chesapeake Bay Resource Protection Areas (RPAs) shall be shown on the map, as other state or local requirements may apply if the project is located within an RPA;~~

18. A copy of the FEMA flood insurance rate map or FEMA-approved local floodplain map for the project site;.

19. The appropriate application processing fee for a VWP general permit (in accordance with 9 VAC 25-20); ~~and. The permit application fee for VWP permit authorizations is based on acres only. Therefore, impacts calculated using linear feet of stream bed must be converted to an acreage in order to calculate the total permit application fee.~~

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20. A written disclosure identifying all wetlands, open water, streams, and associated upland buffers within the proposed project or compensation areas that are under a deed restriction, conservation easement, restrictive covenant, or other land use protective instrument (protected areas). Such disclosure shall include the nature of the prohibited activities within the protected areas.

~~20.~~ 21. The following certification:

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

C. The application shall be signed in accordance with 9 VAC 25-210-100. If an agent is acting on behalf of an applicant, the applicant shall submit an authorization of the agent that includes the signatures of both the applicant and the agent.

D. Upon receipt of an application by the appropriate DEQ office, the board has 15 days to review the application and either determine the information requested in subsection B of this section is complete or inform the applicant that additional information is required to make the application complete. Coverage under this VWP general permit shall be approved, approved with conditions, or denied within 45 days of receipt of a complete application. If the board fails to act within 45 days on a complete application, coverage under this VWP permit general permit shall be deemed approved.

1. In evaluating the application, the board shall make an assessment of the impacts associated with the project in combination with other existing or proposed impacts. Coverage under this VWP general permit shall be denied if the cumulative impacts will cause or contribute to a significant impairment of state waters or fish and wildlife resources.

2. The board may place additional conditions on a project in order to approve authorization under this VWP general permit. However, these conditions must be consistent with the VWP permit regulation.

E. Incomplete application. Where an application is incomplete, the board shall require the submission of additional information and ~~shall~~ may suspend processing the application until such time as the applicant has supplied the ~~missing or deficient~~ requested information and the application is complete. ~~Further,~~ Where the applicant becomes aware that he omitted one or more relevant facts from an application, or submitted incorrect information in an application or in ~~any report~~ reports to the board, the applicant shall immediately submit such facts or the correct information. ~~Such~~ A revised application with new information shall be deemed a new application, but shall not require an additional permit application fee. *An incomplete permit application may be administratively withdrawn from processing by the board after*

180 days from the date that the original permit application was received by the board. Resubmittal of a permit application for the same or similar project, after such time that the original permit application was administratively withdrawn, shall require submittal of an additional permit application fee.

9 VAC 25-690-70. Compensation.

A. *In accordance with 9 VAC 25-690-50 A [4], compensatory mitigation may be required for all permanent, nontidal surface water impacts [~~once the notification limits are exceeded~~]. All temporary, nontidal surface water impacts shall be restored to preexisting conditions.*

B. *Generally, the sequence of preferred compensation options shall be restoration, then creation, then mitigation banking, and then in-lieu fee fund. Also, on-site, in-kind compensatory mitigation, when available, shall be deemed the most ecologically preferable form of compensation for project impacts, in most cases. However, off-site or out-of-kind compensation opportunities that prove to be more ecologically preferable [~~or~~] practicable [on-site or in-kind compensation] may be considered. When the applicant can demonstrate satisfactorily that an off-site or out-of-kind compensatory mitigation proposal is [~~practicable and~~] ecologically preferable, then such proposal may be deemed appropriate for compensation of project impacts.*

A- C. ~~For the purposes of this VWP general permit, the board may accept any one or combination of the following as compensation compensatory mitigation for unavoidable wetland impacts may be met through the following: wetland creation, wetland or stream restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund. Preservation of wetlands, or preservation or restoration of upland buffers adjacent to state waters, may only be applied toward wetland compensation when utilized in conjunction with one or more of the above mentioned compensation options. Preservation or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers, may be applied toward stream compensation as appropriate.~~

1. *Wetland creation.*

2. *Wetland restoration.*

3. *The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.*

4. *A contribution to an approved in-lieu fee fund.*

5. *Preservation of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.*

6. *Restoration of upland buffers adjacent to state waters, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection and when consistent with 9 VAC 25-210-115 C.*

7. *Preservation of wetlands, when utilized in conjunction with subdivision 1, 2, or 3 of this subsection.*

D. *For the purposes of this VWP general permit, compensatory mitigation for unavoidable stream impacts may be met through the following:*

1. Stream channel restoration or enhancement.
2. Riparian buffer restoration or enhancement.
3. Riparian buffer preservation, when consistent with 9 VAC 25-210-115 C.
4. A contribution to an approved in-lieu fee fund.

5. The purchase or use of credits from a mitigation bank, pursuant to § 62.1-44.15:5 E of the Code of Virginia.

~~E. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E. The applicant shall provide proof of contribution to DEQ prior to commencing activities in impact areas.~~

~~F. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

~~B. G. Compensation for unavoidable, permanent wetland impacts shall be provided at the following minimum compensation to impact ratios:~~

1. Impacts to forested wetlands shall be mitigated at 2:1, as calculated on an area basis.
2. Impacts to scrub shrub wetlands shall be mitigated at 1.5:1, as calculated on an area basis.
3. Impacts to emergent wetlands shall be mitigated at 1:1, as calculated on an area basis.

~~C. Compensation for unavoidable impacts to streams shall be provided and shall include, as practicable and appropriate, stream restoration, riparian buffer restoration or enhancement, or preservation or enhancement of stream corridors. The purchase or use of stream mitigation bank credits or contribution to an in-lieu fee fund that includes watershed enhancements is also acceptable. H. Compensation for stream bed impacts shall be appropriate to replace lost functions and water quality benefits. One factor in determining the required compensation shall be an analysis of stream impacts utilizing a stream impact assessment methodology approved by the board acceptable to DEQ.~~

~~D. I. Compensation for permanent open water impacts other than to streams may be required at a 1:1 replacement to impact ratio, as appropriate calculated on an area basis, to protect offset impacts to state waters and fish and wildlife resources from significant impairment.~~

~~E. J. Compensation for conversion impacts to wetlands shall be required at a 1:1 replacement to impact ratio, as calculated on an area basis, when such conversion results in a permanent alteration of the functions and values of the wetland. For example, the permanent conversion of a forested wetland to an emergent wetland is considered to be a permanent impact for the purposes of this regulation. Compensation for conversion of other types of surface waters may be required, as appropriate, to offset impacts to state~~

~~waters and fish and wildlife resources from significant impairment.~~

~~F. In order for contribution to an in-lieu fee fund to be an acceptable form of compensation, the fund must be approved for use by the board according to the provisions of 9 VAC 25-210-115 E.~~

~~G. In order for purchase or use of bank credits to be an acceptable form of compensation, the bank shall be operating in accordance with the provisions of § 62.1-44.15:5 E of the Code of Virginia and 9 VAC 25-210-115 F. The applicant shall provide proof of purchase, use, or debit to DEQ prior to commencing activities in impact areas.~~

9 VAC 25-690-80. Notice of planned changes.

A. The permittee shall notify the board in advance of the planned change, and the planned changes request will be reviewed according to all provisions of this regulation.

~~A. B. Authorization under this VWP general permit may be modified subsequent to issuance if the permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully mitigated. In no case can this authorization be modified to exceed the general permit threshold for use. Prior to a planned change approval, DEQ may require submission of a compensatory mitigation plan for the additional impacts. In cases where the original impacts totaled less than 1/10 acre of wetlands or open water, or less than 300 linear feet of stream bed, and the additional impacts result in these limits being exceeded, the notice of planned change will not be approved. However, the applicant may submit a new permit application and permit application fee for the total impacts to be considered under this VWP general permit, another VWP general permit, or a VWP individual permit.~~

~~B. C. Authorization under this VWP general permit may be modified after issuance if the project results in less wetland or stream impacts. Compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals. DEQ shall not be responsible for ensuring refunds for mitigation bank credit purchases, mitigation bank usage, or in-lieu fee fund contributions.~~

~~C. D. Authorization under this VWP general permit may be modified after issuance for a change in project plans that does not result in a change in project impacts.~~

~~D. E. Authorization under the VWP general permit may be modified for a change to the mitigation bank at which credits are purchased or used, provided that the same amount of credits are purchased or used and all criteria for use in 9 VAC 25-210-115 F are met.~~

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~~E. F. Authorization under the VWP general permit may be modified after issuance for typographical errors.~~

F. G. A Notice of Planned Change is not required after authorization issuance for additional temporary impacts to surface waters, provided that DEQ is notified in writing regarding additional temporary impacts, and the area is restored to preexisting conditions in accordance with Part I C 11 of this general permit. In no case can the additional temporary impacts exceed the general permit threshold for use.

~~G. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

H. In no case can this authorization be modified to exceed the general permit threshold for use.

I. A notice of planned change shall be denied if fish and wildlife resources are significantly impacted or if the criteria in subsection B [of this section] are not met. However, the original VWP general permit authorization shall remain in effect. The applicant may submit a new permit application and permit application fee for consideration under a VWP individual permit.

9 VAC 25-690-90. Termination of authorization by consent.

When all permitted activities requiring notification under 9 VAC 25-690-50 A [4] and all compensatory mitigation requirements have been completed, or if the authorized impacts will not occur, the permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130. The director may accept this termination of authorization on behalf of the board. The permittee shall submit the following information:

1. Name, mailing address and telephone number of the permittee;
2. Name and location of the activity;
3. The VWP permit authorization number; and
4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities and any required compensatory mitigation authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities and any required compensatory mitigation authorized by this VWP

general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that all the activities or the required compensatory mitigation authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

9 VAC 25-690-95. Transition.

A. All applications received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

B. VWP general permit authorizations issued prior to [~~insert effective date~~] August 1, 2006,] will remain in full force and effect until such authorizations expire, are revoked, or are terminated.

C. Notices of planned change and all other types of notification that are received by the board prior to [~~insert effective date~~] August 1, 2006,] will be processed in accordance with the VWP general permit regulation in effect at that time. Notices of planned change and all other types of notification to the board that are received on or after [~~insert effective date~~] August 1, 2006,] will be processed in accordance with these new procedures.

9 VAC 25-690-100. VWP general permit.

Any applicant whose application has been accepted by the board shall be subject to the following requirements:

VWP General Permit No. WP4

Authorization effective date:

Authorization expiration date:

Authorization Notes(s):

VWP GENERAL PERMIT FOR IMPACTS FROM DEVELOPMENT AND CERTAIN MINING ACTIVITIES UNDER THE VIRGINIA WATER PROTECTION PERMIT AND THE VIRGINIA STATE WATER CONTROL LAW

Based upon an examination of the information submitted by the applicant and in compliance with § 401 of the Clean Water Act as amended (33 USC § 1341) and the State Water Control Law and regulations adopted pursuant thereto, the board has determined that there is a reasonable assurance that the activity authorized by this VWP general permit, if conducted in accordance with the conditions set forth herein, will protect instream beneficial uses and will not violate applicable water quality standards. The board finds that the effect of the impact, together with other existing or proposed impacts to wetlands, will not cause or contribute to a significant impairment of state waters or fish and wildlife resources.

Subject to the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, the permittee is authorized to *permanently or temporarily* impact up to two acres of nontidal ~~surface waters, including wetlands or open water and~~ up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel and~~ up to 1,500 linear feet of nonperennial stream channel bed.

Permittee:

Address:

Activity Location:

Activity Description:

The authorized activity shall be in accordance with this cover page, Part I-Special Conditions, Part II-Compensation, Monitoring, and Reporting, and Part III-Conditions Applicable to All VWP Permits, as set forth herein.

Director, Department of Environmental Quality

Date

Part I. Special Conditions.

A. Authorized activities.

1. This permit authorizes *permanent or temporary* impacts of up to two acres of nontidal ~~surface waters including wetlands or open water and~~ up to ~~500~~ 1,500 linear feet of ~~perennial nontidal stream channel and~~ up to 1,500 linear feet of ~~nonperennial stream channel bed~~ according to the information provided in the approved *and complete* application.

2. Any changes to the authorized permanent impacts to surface waters associated with this project shall require either a notice of planned change in accordance with 9 VAC 25-690-80, or another VWP permit application.

3. Any changes to the authorized temporary impacts to surface waters associated with this project shall require written notification to DEQ and restoration to preexisting conditions in accordance with the conditions of this permit authorization.

4. Modification to compensation requirements may be approved at the request of the permittee when a decrease in the amount of authorized surface waters impacts occurs, provided that the adjusted compensation meets the initial authorization compensation goals.

5. The activities authorized for coverage under this VWP general permit must commence and be completed within ~~five~~ seven years of the date of this authorization.

B. Continuation of coverage. Reapplication for continuation of coverage under this VWP general permit or a new VWP permit may be necessary if any portion of the authorized activities or any VWP general permit requirement (including compensation) has not been completed within ~~five~~ seven years of the date of authorization. Notwithstanding any other provision, a request for continuation of coverage under a VWP general permit in order to complete monitoring requirements shall not be considered a new application, and no application fee will be charged. The request for continuation of coverage must be made no less than 60 days prior to the expiration date of this VWP general permit authorization, at which time the board will determine if continuation of the VWP general permit authorization is necessary.

C. Overall project conditions.

1. The activities authorized by this VWP general permit shall be executed in a manner so as to minimize ~~any~~ adverse ~~impact~~ impacts on instream beneficial uses as defined in § 62.1-10 (b) of the Code of Virginia.

2. No activity may substantially disrupt the movement of aquatic life indigenous to the water body, including those species which normally migrate through the area, unless the primary purpose of the activity is to impound water. Culverts placed in streams must be installed to maintain low flow conditions. The requirement to countersink does not apply to extensions or maintenance of existing culverts that are not countersunk, floodplain culverts being placed above ordinary high water, culverts being placed on bedrock, or culverts required to be placed on slopes 5.0% or greater. No activity may cause more than minimal adverse effect on navigation. Furthermore the activity must not impede the passage of normal or expected high flows and the structure or discharge must withstand expected high flows.

3. Wet or uncured concrete shall be prohibited from entry into flowing surface waters. Excess or waste concrete shall not be disposed of in flowing surface waters or washed into flowing surface waters.

4. All fill material shall be clean and free of contaminants in toxic concentrations or amounts in accordance with all applicable laws and regulations.

5. Erosion and sedimentation controls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, or for mining activities covered by this general permit, the standards issued by the Virginia Department of Mines, Minerals and Energy that are effective as those in the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992. These controls shall be placed prior to clearing and grading and maintained in good working order to minimize impacts to state waters. These controls shall remain in place until the area is stabilized and shall then be removed.

6. ~~Any~~ Exposed slopes and streambanks shall be stabilized immediately upon completion of work in each permitted impact area. All denuded areas shall be properly stabilized in

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accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

7. All construction, construction access (e.g., cofferdams, sheetpiling, and causeways) and demolition activities associated with this project shall be accomplished in a manner that minimizes construction or waste materials from entering surface waters to the maximum extent practicable, unless authorized by this VWP general permit.

8. No machinery may enter flowing waters, unless authorized by this VWP general permit.

9. Heavy equipment in temporarily-impacted wetland areas shall be placed on mats, geotextile fabric, or other suitable material to minimize soil disturbance to the maximum extent practicable. Equipment and materials shall be removed immediately upon completion of work.

10. All nonimpacted surface waters *and compensatory mitigation areas* within 50 feet of any permitted activities and within the project or right-of-way limits shall be clearly flagged or marked for the life of the construction activity at that location to preclude any unauthorized disturbances to these surface waters *and compensatory mitigation areas* during construction. The permittee shall notify all contractors that *no activities are to occur in these marked areas* are surface waters ~~where no activities are to occur~~.

11. Temporary disturbances to surface waters during construction shall be avoided and minimized to the maximum extent practicable. All temporarily disturbed wetland areas shall be restored to ~~preconstruction~~ *preexisting* conditions within 30 days of completing work *at each respective temporary impact area*, which shall include reestablishing preconstruction contours, and planting or seeding with appropriate wetland vegetation according to cover type (emergent, scrub/shrub, or forested). The permittee shall take all appropriate measures to promote and maintain revegetation of temporarily disturbed wetland areas with wetland vegetation through the second year post-disturbance. All temporarily impacted streams and streambanks shall be restored to their original contours within 30 days following the construction at that stream segment, and the banks seeded or planted with the same vegetation cover type originally present along the streambanks, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

12. All Materials (including fill, construction debris, and excavated and woody materials) temporarily stockpiled in wetlands shall be placed on mats or geotextile fabric, immediately stabilized to prevent entry into state waters, managed such that leachate does not enter state waters, and completely removed within 30 days following completion of that construction activity. Disturbed areas shall be returned to original contours, restored within 30 days following removal of the stockpile, and restored with the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

13. Continuous flow of perennial springs shall be maintained by the installation of spring boxes, french drains, or other similar structures.

14. The permittee shall employ measures to prevent spills of fuels or lubricants into state waters.

15. The permittee shall conduct activities in accordance with ~~any~~ *the* time-of-year restrictions recommended by the *Virginia* Department of Game and Inland Fisheries ~~or~~ , the Virginia Marine Resources Commission, *or other interested and affected agencies* and shall ensure that all contractors are aware of ~~any~~ *the* time-of-year restrictions imposed.

16. Water quality standards shall not be violated as a result of the construction activities, unless allowed by this permit authorization.

~~[17. Untreated stormwater runoff shall be prohibited from directly discharging into any surface waters, unless allowed by this permit authorization. Appropriate best management practices shall be deemed suitable treatment prior to discharge into state waters.~~

~~17.~~] If stream channelization or relocation is required, all work in surface waters shall be done in the dry, unless authorized by this VWP general permit, and all flows shall be diverted around the channelization or relocation area until the new channel is stabilized. This work shall be accomplished by leaving a plug at the inlet and outlet ends of the new channel during excavation. Once the new channel has been stabilized, flow shall be routed into the new channel by first removing the downstream plug and then the upstream plug. The rerouted stream flow must be fully established before construction activities in the old stream channel can begin.

D. Road crossings.

1. Access roads and associated bridges or culverts shall be constructed to minimize the adverse effects on surface waters to the maximum extent practicable. Access roads constructed above preconstruction contours and elevations in surface waters must be bridged or culverted to maintain surface flows.

2. Installation of road crossings shall occur in the dry via the implementation of cofferdams, sheetpiling, stream diversions, or similar structures.

E. Utility lines.

1. All utility line work in surface waters shall be performed in a manner that minimizes disturbance, and the area must be returned to its original contours and restored within 30 days of completing work in the area, unless otherwise authorized by this VWP general permit. Restoration shall be the seeding or planting of the same vegetation cover type originally present, including supplemental erosion control grasses if necessary, except for invasive species identified on DCR's Invasive Alien Plant Species of Virginia list.

2. Material resulting from trench excavation may be temporarily sidecast into wetlands not to exceed a total of 90 days, provided the material is not placed in a manner such that it is dispersed by currents or other forces.

3. The trench for a utility line cannot be constructed in a manner that drains wetlands (e.g., backfilling with extensive gravel layers creating a french drain effect.). For example, utility lines may be backfilled with clay blocks to ensure that the trench does not drain surface waters through which the utility line is installed.

F. Stream modification and stream bank protection.

1. Riprap bank stabilization shall be of an appropriate size and design in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

2. Riprap apron for all outfalls shall be designed in accordance with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992.

3. For stream bank protection activities, the structure and backfill shall be placed as close to the stream bank as practicable. No material shall be placed in excess of the minimum necessary for erosion protection.

4. All stream bank protection structures shall be located to eliminate or minimize impacts to vegetated wetlands to the maximum extent practicable.

5. Asphalt and materials containing asphalt or other toxic substances shall not be used in the construction of submerged sills or breakwaters.

6. Redistribution of existing stream substrate for the purpose of erosion control is prohibited.

7. No material removed from the stream bottom shall be disposed of in surface waters, unless authorized by this permit.

G. Dredging.

1. Dredging depths shall be determined and authorized according to the proposed use and controlling depths outside the area to be dredged.

2. Dredging shall be accomplished in a manner that minimizes disturbance of the bottom and minimizes turbidity levels in the water column.

3. If evidence of impaired water quality, such as a fish kill, is observed during the dredging, dredging operations shall cease and the DEQ shall be notified immediately.

4. Barges used for the transportation of dredge material shall be filled in such a manner to prevent ~~any~~ the overflow of dredged materials.

5. Double handling of dredged material in state waters shall not be permitted.

6. For navigation channels the following shall apply:

a. A buffer of four times the depth of the dredge cut shall be maintained between the bottom edge of the design channel and the channelward limit of wetlands ~~or mean low water~~, or a buffer of 15 feet shall be maintained from the dredged cut and the channelward edge of wetlands ~~or mean low water~~, whichever is greater. This landward limit of buffer shall be flagged and inspected prior to construction.

b. Side slope cuts of the dredging area shall not exceed a two-horizontal-to-one-vertical slope to prevent slumping of material into the dredged area.

7. A dredged material management plan for the designated upland disposal site shall be submitted and approved 30 days prior to initial dredging activity.

8. Pipeline outfalls and spillways shall be located at opposite ends of the dewatering area to allow for maximum retention and settling time. Filter fabric shall be used to line the dewatering area and to cover the outfall pipe to further reduce sedimentation to state waters.

9. The dredge material dewatering area shall be of adequate size to contain the dredge material and to allow for adequate dewatering and settling out of sediment prior to discharge back into state waters.

10. The dredge material dewatering area shall utilize an earthen berm or straw bales covered with filter fabric along the edge of the area to contain the dredged material, and shall be properly stabilized prior to placing the dredged material within the containment area.

11. Overtopping of the dredge material containment berms with dredge materials shall be strictly prohibited.

H. Stormwater management facilities.

1. Stormwater management facilities shall be installed in accordance with best management practices and watershed protection techniques (~~i.e.,~~ e.g., vegetated buffers, siting considerations to minimize adverse effects to aquatic resources, bioengineering methods incorporated into the facility design to benefit water quality and minimize adverse effects to aquatic resources) that provide for long-term aquatic resources protection and enhancement, to the maximum extent practicable.

2. Compensation for unavoidable impacts shall not be allowed within maintenance areas of stormwater management facilities.

3. Maintenance activities within stormwater management facilities shall not require additional permit authorization or compensation provided that the maintenance activities do not exceed the original contours of the facility, as approved and constructed, and is accomplished in designated maintenance areas as indicated in the facility maintenance or design plan.

Part II. Construction and Compensation Requirements, Monitoring, and Reporting.

A. ~~Compensation~~ *Minimum compensation requirements.*

1. The permittee shall provide appropriate and practicable compensation for all impacts meeting the conditions outlined in this VWP general permit.

2. ~~The types of Compensation options that may be considered under this VWP general permit include wetland or stream creation or restoration, the purchase or use of mitigation bank credits, or a contribution to an approved in-lieu fee fund shall meet the criteria in 9 VAC 25-690-70.~~

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~~3. For wetlands compensation may incorporate preservation of wetlands or preservation or restoration of upland buffers adjacent to state waters when utilized in conjunction with creation, restoration, or mitigation bank credits. For other surface waters, compensation may incorporate preservation, restoration, or enhancement of stream channels, or preservation, restoration, or enhancement of adjacent riparian buffers.~~

~~4.~~ 3. The site or sites depicted in the conceptual compensation plan submitted with the application shall constitute the compensation site for the approved project. A site change will require a modification to the authorization.

~~5.~~ 4. For compensation involving the purchase or use of mitigation bank credits or a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the mitigation bank credit purchase or usage or of the fund contribution has been submitted to and received by DEQ.

~~6. For projects proposing a contribution to an in-lieu fee fund, the permittee shall not initiate work in permitted impact areas until documentation of the in-lieu fee fund contribution has been submitted to and received by DEQ.~~

~~7.~~ 5. All aspects of the compensation plan shall be finalized, submitted and approved by the board prior to any a construction activity in permitted impact areas. The board shall review and provide written comments on the plan within 30 days of receipt or it shall be deemed approved. The final compensation plan as approved by the board shall be an enforceable requirement of this VWP general permit authorization. Any Deviations from the approved plan must be submitted and approved in advance by the board.

~~8.~~ 6. The final wetlands compensation plan shall include:

a. The goals and objectives of the plan in terms of replacement of wetland acreage and functions, by wetland type;

b. Location map, including latitude and longitude (to the nearest second) at the center of the site;

c. Summary of the type and acreage of existing wetland impacts anticipated during the construction of the compensation site and proposed compensation for these impacts;

d. Grading plan with existing and proposed elevations at one-foot or less contours;

e. Schedule for compensation site construction, including sequence of events with estimated dates;

f. Hydrologic analysis, including a water budget based on expected monthly inputs and outputs that will project water level elevations for a typical year, a wet year, and a dry year;

g. Groundwater elevation data for the site, or the proposed location of groundwater monitoring wells to collect these data, and groundwater data for reference wetlands, if applicable;

h. Design of water control structures;

i. Planting scheme and schedule, indicating plant species, zonation, and acreage of each vegetation type proposed;

j. An abatement and control plan covering all undesirable plant species, as listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods of removal, and the control of any such species;

k. Erosion and sedimentation control plan;

l. A soil preparation and amendments plan addressing both topsoil and subsoil conditions;

m. A discussion of any structures and features considered necessary for the success of the site;

n. A monitoring plan, including success criteria, monitoring goals and methodologies, monitoring and reporting schedule, and the locations of photographic stations and monitoring wells, any sampling points, and, if applicable, reference wetlands;

o. Site access plan;

p. The location and composition of any buffers; and

q. The mechanism for protection of the compensation area(s).

~~9.~~ 7. The final stream compensation plan shall include:

a. The goals and objectives of the compensation plan in terms of replacement of stream functions and values water quality benefits;

b. A location map, including latitude and longitude (to the nearest second) at the center of the site;

c. An evaluation, discussion, and plan sketches of existing conditions on the proposed compensation stream, including the identification of functional and physical deficiencies for which the measures are proposed, and summary of geomorphologic measurements (e.g., stream width, entrenchment ratio, width-depth ratio, sinuosity, slope, substrate, etc.);

d. The identification of existing geomorphological stream type being impacted and proposed geomorphological stream type for compensation purposes;

e. Detailed design information for the proposed restorative measures, including geomorphological measurements and reference reach information as appropriate;

f. Riparian buffer plantings, including planting scheme, species, buffer width;

g. Livestock access limiting measures, to the greatest extent possible;

h. A site access plan;

i. An erosion and sedimentation control plan, if appropriate;

j. An abatement and control plan covering all undesirable plant species, listed on DCR's Invasive Alien Plant Species of Virginia list, that includes the proposed procedures for notifying DEQ of their presence, methods for removal, and the control of any such species;

k. A schedule for compensation site construction including projected start date, sequence of events with projected dates, and projected completion date;

l. A monitoring plan, including a monitoring and reporting schedule; monitoring design and methodologies to evaluate the success of the proposed compensation measures, allowing comparison from year to year; proposed success criteria for appropriate compensation measures; location of all monitoring stations including photo stations, vegetation sampling points, survey points, bank pins, scour chains, and reference streams;

m. The mechanism for protection of the compensation area; and

n. Plan view sketch depicting the pattern and all compensation measures being employed, a profile sketch, and cross-section sketches of the proposed compensation stream.

~~40-~~ 8. For final wetland or stream compensation plans, ~~any the~~ vegetation used shall be native species common to the area, shall be suitable for growth in local wetland or [~~stream~~ riparian] conditions, and shall be from areas within the same or adjacent USDA Plant Hardiness Zone or NRCS Land Resource Region as that of the project site.

~~44-~~ 9. The final wetland or stream compensation plan(s) shall include a mechanism for protection in perpetuity of the compensation sites(s) to include all state waters within the compensation site boundary or boundaries. Such protections shall be in place within 120 days of final [*compensation*] plan approval. The restrictions, protections, or preservations, or similar instrument, shall state that no activity will be performed on the property in any area designated as a compensation area with the exception of maintenance or corrective action measures authorized by the board. Unless specifically authorized by the board through the issuance of a VWP individual or general permit, or waiver thereof, this restriction applies to ditching, land clearing or the discharge of dredge or fill material. Such instrument shall contain the specific phrase "ditching, land clearing or discharge of dredge or fill material" in the limitations placed on the use of these areas. The protective instrument shall be recorded in the chain of title to the property, or an equivalent instrument for government-owned lands. Proof of recordation shall be submitted within 120 days of [~~the~~ final compensation plan] approval.

~~42-~~ 10. All work in impact areas shall cease if compensation site construction has not commenced within 180 days of commencement of project construction, unless otherwise authorized by the board.

~~43-~~ 11. DEQ shall be notified in writing at least 10 days prior to the initiation of construction activities at the compensation site(s).

~~44-~~ 12. Planting of woody plants shall occur when vegetation is normally dormant unless otherwise approved in the final wetlands or stream compensation plan(s).

~~45-~~ 13. Point sources of stormwater runoff shall be prohibited from entering ~~any~~ a wetland compensation site prior to treatment by appropriate best management practices. Appropriate best management practices may include

sediment traps, grassed waterways, vegetated filter strips, debris screens, oil and grease separators, or forebays.

~~46-~~ 14. The success of the compensation shall be based on meeting the success criteria established in the approved final compensation plan.

~~47-~~ 15. Wetland hydrology shall be considered established if depths to the seasonal high water table are equal to or less than 12 inches below ground surface for at least 12.5% of the region's killing frost-free growing season, as defined in the soil survey for the locality of the compensation site or the NRCS WETS table, measured in consecutive days under typical precipitation conditions, and as defined in the water budget of the final compensation plan. For the purpose of this regulation, the growing season is defined as the period in which temperatures are expected to be above 28 degrees Fahrenheit in five out of 10 years, or the period during which the soil temperature in a wetland compensation site is greater than biological zero (five degrees Celsius) at a depth of 50 centimeters (19.6 inches), if such data is available.

~~48-~~ 16. The wetland plant community shall be considered established according to the performance criteria specified in the final compensation plan and approved by the board. The proposed vegetation success criteria in the final compensation plan shall include the following:

a. Species composition shall reflect the desired plant community types stated in the final wetland compensation plan by the end of the first growing season and shall be maintained through the last monitoring year.

b. Species composition shall consist of greater than 50% facultative (FAC) or wetter (FACW or OBL) vegetation, as expressed by plant stem density or areal cover, by the end of the first growing season and shall be maintained through the last monitoring year.

~~49-~~ 17. Undesirable plant species shall be identified and controlled as described in the undesirable plant species control plan, such that they are not dominant species or do not change the desired community structure. The control plan shall include procedures to notify DEQ when undesirable plant species comprise greater than 5.0% of the vegetation by areal coverage on wetland or stream compensation sites. The notification shall include the methods of removal and control, and whether the methods are successful.

~~20-~~ 18. If the wetland or stream compensation ~~area(s) fail~~ area fails to meet the specified success criteria in a particular monitoring year ~~(with the exception of, other than the final monitoring year)~~, the reasons for this failure shall be determined, and a corrective action plan ~~(including proposed actions, a schedule, and a monitoring plan)~~ shall be submitted to DEQ for approval with or before that year's monitoring report. The ~~approved~~ corrective action plan shall contain *at minimum the proposed actions, a schedule for those actions, and a monitoring plan*, and shall be implemented by the permittee in accordance with the approved schedule. Should significant changes be necessary to ensure success, the required monitoring cycle shall begin again, with monitoring year one being the year that the changes are complete, as confirmed by DEQ. ~~21- If all success criteria have not been~~

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~~not in the wetland or stream compensation area fails to meet the specified success criteria by the final monitoring year, or if the wetland or stream compensation site area has not met the stated restoration goals, reasons for this failure shall be determined and a corrective action plan, including proposed actions, a schedule, and a monitoring plan, shall be submitted with the final year monitoring report for DEQ approval. Corrective action shall be implemented by the permittee in accordance with the approved schedule. Annual monitoring shall be required for each consecutive year to continue until two sequential, annual reports indicate that all criteria have been successfully satisfied and the site has met the overall restoration goals (i.e., e.g., that corrective actions were successful). The reasons for this failure shall be determined and a corrective action plan (including proposed actions, a schedule, and a monitoring plan) shall be submitted with the monitoring report to DEQ for approval and implemented by the permittee in accordance with the approved schedule.~~

~~22-~~ 19. The surveyed wetland boundary for the wetlands compensation site shall be based on the results of the hydrology, soils, and vegetation monitoring data and shall be shown on the site plan. Calculation of total wetland acreage shall be based on that boundary at the end of the monitoring cycle. Data shall be submitted by December 31 of the final monitoring year.

~~23-~~ 20. Herbicides or algicides shall not be used in or immediately adjacent to the wetlands or stream compensation site or sites without prior authorization by the board. All vegetation removal shall be done by manual means, unless authorized by DEQ in advance.

B. Impact site construction monitoring.

1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preexisting conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:

a. Photographs shall be taken during construction at the end of the first, second, and third months after commencing construction, and then every six months thereafter for the remainder of the construction project. Photos are not required during periods of no activity within impact areas.

b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and then annually thereafter, until all impacts are taken. Photos shall clearly show the delineated surface waters and authorized impact areas.

c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months after commencing construction, and then every six months thereafter, for the remainder of the construction activities. Narratives are not required during periods of no activity within the impact areas.

2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and

maintenance of erosion and sediment controls; surface water discharges from the site; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.

3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.

4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the manner noted below. The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.

a. A sampling station shall be located upstream and immediately downstream of the relocated channel.

b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.

c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.

~~B-~~ C. Wetland compensation site monitoring.

1. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites including invert elevations for all water elevation control structures and spot elevations throughout the site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. Either type of survey shall be certified by a licensed surveyor or by a registered professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. ~~Any~~ Changes or deviations in the as-built survey or aerial survey shall be shown on the survey and explained in writing.

2. Photographs shall be taken at the compensation site or sites from the permanent markers identified in the final compensation plan, and established to ensure that the same locations and view directions at the site or sites are monitored in each monitoring period. These photographs shall be taken after the initial planting and at a time specified in the final compensation plan during every monitoring year.

3. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after

wetland compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1, 2, 3, and 5, unless otherwise approved by DEQ. In all cases if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

4. The establishment of wetland hydrology shall be measured during the growing season, with the location and number of monitoring wells, and frequency of monitoring for each site, set forth in the final monitoring plan. All Hydrology monitoring well data shall be accompanied by precipitation data, including rainfall amounts either from on site or from the closest weather station. Once the wetland hydrology success criteria have been satisfied for a particular monitoring year, monitoring may be discontinued for the remainder of that monitoring year following DEQ approval. After a period of three monitoring years, the permittee may request that hydrology monitoring be discontinued, providing that adequate hydrology has been established and maintained. Hydrology monitoring shall not be discontinued without written approval from DEQ.

5. The presence of hydric soils or soils under hydric conditions shall be evaluated in accordance with the final compensation plan.

6. The establishment of wetland vegetation shall be in accordance with the final compensation plan. Monitoring shall take place in August, September, or October during the growing season of each monitoring year, unless otherwise authorized in the monitoring plan:

7. The presence of undesirable plant species shall be documented.

8. All wetland compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-690-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones;~~

~~b. Summary of activities completed during the monitoring year;~~

~~c. Description of monitoring methods;~~

~~d. Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan;~~

~~e. Evaluation of hydric soils or soils under hydric conditions, as appropriate;~~

~~f. Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan;~~

~~g. Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph,~~

~~the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete;~~

~~h. Discussion of wildlife or signs of wildlife observed at the compensation site;~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, if applicable;~~

~~j. Discussion of corrective measures or maintenance activities to control undesirable species, to repair any damaged water control device, or to replace any damaged planted vegetation; and~~

~~k. Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.~~

~~C. D. Stream compensation, restoration, and monitoring.~~

1. Any Riparian buffer restoration activities shall be detailed in the final compensation plan and shall include, as appropriate, the planting of a variety of native species currently growing in the site area, including appropriate seed mixtures and woody species that are bare root, balled, or burlapped. A minimum buffer width of 50 feet, measured from the top of the stream bank at bankfull elevation landward on both sides of the stream, shall be required where practical.

2. The installation of root wads, vanes, and other instream structures, shaping of the stream banks, and channel relocation shall be completed in the dry whenever practicable.

3. Livestock access to the stream and designated riparian buffer shall be limited to the greatest extent practicable.

4. Stream channel restoration activities shall be conducted in the dry or during low flow conditions. When site conditions prohibit access from the streambank, heavy equipment shall be authorized for use within the stream channel.

5. Photographs shall be taken at the compensation site from the vicinity of the permanent photo stations identified in the final compensation plan. The photograph orientation shall remain constant during all monitoring events. At a minimum, photographs shall be taken from the center of the stream, facing downstream, with a sufficient number of photographs to view the entire length of the restoration site. Photographs shall document the completed restoration conditions. Photographs shall be taken prior to site activities, during instream and riparian compensation construction activities, within one week of completion of activities, and during at least one day of each monitoring year to depict restored conditions.

6. An as-built ground survey, or an aerial survey provided by a firm specializing in aerial surveys, shall be conducted for the entire compensation site or sites. Aerial surveys shall include the variation from actual ground conditions, such as +/- 0.2 feet. The survey shall be certified by the licensed surveyor or by a registered, professional engineer to conform to the design plans. The survey shall be submitted within 60 days of completing compensation site construction. Any Changes or deviations from the final compensation plans in the as-built

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survey or aerial survey shall be shown on the survey and explained in writing.

7. Compensation site monitoring shall begin on day one of the first complete growing season (monitoring year 1) after stream compensation site construction activities, including planting, have been completed. Monitoring shall be required for monitoring years 1 and 2, unless otherwise determined by DEQ. In all cases, if all success criteria have not been met in the final monitoring year, then monitoring shall be required for each consecutive year until two annual sequential reports indicate that all criteria have been successfully satisfied.

8. All stream compensation monitoring reports shall be submitted by December 31 of the monitoring year. The reports shall include, as applicable, the following: *in accordance with 9 VAC 25-690-100 Part II E 6.*

~~a. General description of the site including a site location map identifying photo stations and monitoring stations.~~

~~b. Summary of activities completed during the monitoring year.~~

~~c. Description of monitoring methods.~~

~~d. An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.~~

~~e. Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.~~

~~f. A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.~~

~~g. Documentation of undesirable plant species and summary of abatement and control measures.~~

~~h. A summary of wildlife or signs of wildlife observed at the compensation site.~~

~~i. Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.~~

~~j. A corrective action plan, which includes proposed actions, a schedule and monitoring plan.~~

~~k. Any additional submittals that were approved by DEQ in the final compensation plan.~~

~~D. Impact site construction monitoring.~~

~~1. Construction activities authorized by this permit that are within impact areas shall be monitored and documented. The monitoring shall document the preconstruction conditions, activities during construction, and post-construction conditions. Monitoring shall consist of one of the following options:~~

~~a. Photographs shall be taken during construction at the end of the first, second, and third months of construction, and then semi-annually for the remainder of the construction project, except during periods of no activity within impact areas;~~

~~b. An ortho-rectified photograph shall be taken by a firm specializing in ortho-rectified photography prior to construction, and annually thereafter until all impacts are taken, and shall clearly show the delineated surface waters and authorized impact areas; or~~

~~c. In lieu of photographs, and with prior approval from DEQ, the permittee may submit a written narrative that summarizes site construction activities in impact areas. The narrative shall be submitted at the end of the first, second, and third months of construction in impact areas, and then semi-annually for the remainder of the construction activities in impact areas, except during periods of no activity within the impact areas.~~

~~2. As part of construction monitoring, photographs taken at the photo stations or the narrative shall document site activities and conditions, which may include installation and maintenance of erosion and sediment controls; condition of adjacent nonimpact surface waters; flagged nonimpact surface waters; construction access and staging areas; filling, excavation, and dredging activities; culvert installation; dredge disposal; and site stabilization, grading, and associated restoration activities. With the exception of the preconstruction photographs, photographs at an individual impact site shall not be required until construction activities are initiated at that site. With the exception of the post-construction photographs, photographs at an individual impact site shall not be required once the site is stabilized following completion of construction at that site.~~

~~3. Each photograph shall be labeled to include the following information: permit number, impact area and photo station number, date and time of the photograph, name of the person taking the photograph, photograph orientation, and photograph subject description.~~

~~4. Monitoring of water quality parameters shall be conducted during permanent relocation of perennial streams through new channels in the following manner:~~

~~a. A sampling station shall be located upstream and immediately downstream of the relocated channel;~~

~~b. Temperature, pH and dissolved oxygen (D.O.) measurements shall be taken every 30 minutes for at least two hours at each station prior to opening the new channels and immediately before opening new channels.~~

~~c. Temperature, pH and D.O. readings shall be taken after opening the channels and every 30 minutes for at least three hours at each station.~~

~~The permittee shall report violations of water quality standards to DEQ in accordance with the procedures in Part II E. Corrective measures and additional monitoring may be required if water quality standards are not met. Reporting shall not be required if water quality standards are not violated.~~

~~E. Reporting.~~

1. Written communications required by this VWP general permit shall be submitted to the appropriate DEQ office. The VWP general permit authorization number shall be included on all correspondence.

2. DEQ shall be notified in writing at least 10 days prior to the start of construction activities at the first permitted site authorized by this VWP general permit authorization so that inspections of the project can be planned, if deemed necessary by DEQ. The notification shall include a projected schedule for initiation and completion of work at each permitted impact area.

3. Construction monitoring reports shall be submitted to DEQ ~~not~~ no later than the 10th day of the month following the month in which the monitoring event specified in Part II [~~D B~~] takes place, unless otherwise specified below. The reports shall include the following, as appropriate:

a. For each permitted impact area, a written narrative stating whether work was performed during the monitoring period, and if work was performed, a description of the work performed, when the work was initiated, and the expected date of completion.

b. ~~Properly Photographs~~ labeled photographs ~~(to include with the permit number, the photo station number, the photo orientation, the date and time of the photo, the name of the person taking the photograph, and a brief description and VWP permit number) showing representative of the construction activities (including, but not limited to, flagging nonimpact wetland areas, site grading and excavation, installation and maintenance of erosion and sediment controls, culvert installation, bridge and ramp construction, dredging, dredge disposal, etc.). The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.~~ The first construction monitoring report shall include the photographs taken at each impact site prior to initiation of construction in any a permitted impact area. Written notification and photographs demonstrating that all temporarily disturbed wetland and stream areas have been restored in compliance with the permit conditions shall be submitted within 30 days of restoration. *The post-construction photographs shall be submitted within 30 days of documenting post-construction conditions.*

c. Summary of activities conducted to comply with the permit conditions.

d. Summary of permit noncompliance events or problems encountered, subsequent notifications, and corrective actions.

e. Summary of anticipated work to be completed during the next monitoring period, and an estimated date of construction completion at all impact areas.

f. Labeled site map depicting all impact areas and photo stations.

4. DEQ shall be notified in writing within 30 days following the completion of all activities in all permitted impact areas authorized under this permit.

5. DEQ shall be notified in writing at least 10 days prior to the initiation of activities at the compensation site. The notification

shall include a projected schedule of activities and construction completion.

6. All compensation monitoring reports shall be submitted annually by December 31, with the exception of the last year of authorization, in which case the report shall be submitted at least 60 days prior to expiration of authorization under the general permit. ~~Any alterations and maintenance conducted on the compensation sites shall be reported. Undesirable plant species occurrences and control of these occurrences shall also be reported to DEQ.~~

a. All wetland compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations, vegetative and soil monitoring stations, monitoring wells, and wetland zones.

(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) Analysis of all hydrology information, including monitoring well data, precipitation data, and gauging data from streams or other open water areas, as set forth in the final compensation plan.

(5) Evaluation of hydric soils or soils under hydric conditions, as appropriate.

(6) Analysis of all vegetative community information, including woody and herbaceous species, both planted and volunteers, as set forth in the final compensation plan.

(7) Photographs labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. This information shall be provided as a separate attachment to each photograph, if necessary. Photographs taken after the initial planting shall be included in the first monitoring report after planting is complete.

(8) Discussion of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site.

(10) Discussion of corrective measures or maintenance activities to control undesirable species, to repair damaged water control devices, or to replace damaged planted vegetation.

(11) Corrective action plan, which includes proposed actions, a schedule, and monitoring plan.

b. All stream compensation monitoring reports shall include, as applicable, the following:

(1) General description of the site including a site location map identifying photo stations and monitoring stations.

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(2) Summary of activities completed during the monitoring year, including alterations or maintenance conducted at the site.

(3) Description of monitoring methods.

(4) An evaluation and discussion of the monitoring results in relation to the success criteria and overall goals of compensation.

(5) Photographs shall be labeled with the permit number, the name of the compensation site, the photo station number, the photograph orientation, the date and time of the photograph, the name of the person taking the photograph, and a brief description of the photograph subject. Photographs taken prior to compensation site construction activities, during instream and riparian restoration activities, and within one week of completion of activities shall be included in the first monitoring report.

(6) A discussion of alterations, maintenance, or major storm events resulting in significant change in stream profile or cross section, and corrective actions conducted at the stream compensation site.

(7) Documentation of undesirable plant species and summary of abatement and control measures.

(8) A summary of wildlife or signs of wildlife observed at the compensation site.

(9) Comparison of site conditions from the previous monitoring year and reference site, and as-built survey, if applicable.

(10) A corrective action plan, which includes proposed actions, a schedule and monitoring plan.

(11) Additional submittals that were approved by DEQ in the final compensation plan.

7. The permittee shall notify DEQ in writing when unusual or potentially complex conditions are encountered which require debris removal or involve potentially toxic substance. Measures to remove the obstruction, material, or toxic substance or to change the location of ~~any~~ a structure are prohibited until approved by DEQ.

8. The permittee shall report ~~any~~ fish kills or spills of oil or fuel immediately upon discovery. If spills or fish kills occur between the hours of 8:15 a.m. to 5 p.m., Monday through Friday, the appropriate DEQ regional office shall be notified; otherwise, the Department of Emergency Management shall be notified at 1-800-468-8892.

9. Violations of state water quality standards shall be reported within 24 hours to the appropriate DEQ office.

10. All submittals required by this VWP general permit shall contain the following signed certification statement:

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

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

Part III. Conditions Applicable to All VWP General Permits

A. Duty to comply. The permittee shall comply with all conditions of the VWP general permit. Nothing in this VWP general permit shall be construed to relieve the permittee of the duty to comply with all applicable federal and state statutes, regulations, and toxic standards and prohibitions. ~~Any~~ VWP general permit noncompliance is a violation of the Clean Water Act and State Water Control Law, and is grounds for enforcement action, VWP general permit authorization termination for cause, VWP general permit authorization revocation, or denial of a continuation of coverage request.

B. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent ~~any~~ impacts in violation of the VWP general permit which may have a reasonable likelihood of adversely affecting human health or the environment.

C. Reopener. This VWP general permit authorization may be reopened to modify its conditions when the circumstances on which the previous VWP general permit authorization was based have materially and substantially changed, or special studies conducted by the board or the permittee show material and substantial change since the time the VWP general permit authorization was issued and thereby constitute cause for VWP general permit authorization revocation and reissuance.

D. Compliance with state and federal law. Compliance with this VWP general permit constitutes compliance with the VWP permit requirements of the State Water Control Law. Nothing in this VWP general permit shall be construed to preclude the institution of any legal action under or relieve the permittee from any responsibilities, liabilities, or other penalties established pursuant to any other state law or regulation or under the authority preserved by § 510 of the Clean Water Act.

E. Property rights. The issuance of this VWP general permit does not convey ~~any~~ property rights in either real or personal property, or ~~any~~ exclusive privileges, nor does it authorize ~~any~~ injury to private property or ~~any~~ invasion of personal property rights, nor ~~any~~ infringement of federal, state or local laws or regulations.

F. Severability. The provisions of this VWP general permit authorization are severable.

G. Right of entry. The permittee shall allow the board or its agents, upon the presentation of credentials, at reasonable times and under reasonable circumstances: ~~1-~~ to enter the permittee's property, public or private, and have access to, inspect and copy ~~any~~ records that must be kept as part of the VWP general permit conditions; ~~2-~~ to inspect ~~any~~ facilities, operations or practices (including monitoring and control equipment) regulated or required under the VWP general permit; ~~and 3-~~ to sample or monitor any substance, parameter or activity for the purpose of assuring compliance with the conditions of the VWP general permit or as otherwise authorized by law. For the purpose of this section, the time for inspection shall be deemed reasonable during regular

business hours. Nothing contained herein shall make an inspection time unreasonable during an emergency.

H. Transferability of VWP general permit authorization. This VWP general permit authorization may be transferred to another person by a permittee ~~if: when all of the criteria listed below are met. On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

1. The current permittee notifies the board of the transfer of the title to the facility or property;

2. The notice to the board includes a written agreement between the ~~existing current and new permittee permittees~~ containing a specific date of transfer of VWP general permit authorization responsibility, coverage and liability to the new permittee, or that the ~~existing current~~ permittee will retain such responsibility, coverage or liability, including liability for compliance with the requirements of ~~any~~ enforcement activities related to the permitted activity; ~~and.~~

3. The board does not notify the ~~existing current and new permittee permittees~~ of its intent to modify or revoke and reissue the VWP general permit authorization within 15 days.

~~On the date of the VWP general permit authorization transfer, the transferred VWP general permit authorization shall be as fully effective as if it had been issued directly to the new permittee.~~

1. Notice of planned change. Authorization under the VWP general permit may be modified subsequent to issuance in one or more of the cases listed below. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.

1. The permittee determines that additional permanent wetland, open water, or stream impacts are necessary, provided that *the additional impacts are associated with the previously authorized activities in authorized locations within the same phase of development, the cumulative increase in acreage of wetland or open water impacts is not greater than 1/4 acre and, the cumulative increase in stream bed impacts is not greater than 50 100 linear feet, and provided that the additional impacts are fully compensated;* ~~(ii).~~

2. The project results in less wetland or stream impacts, in which case, compensation requirements may be modified in relation to the adjusted impacts at the request of the permittee, provided that the adjusted compensation meets the initial authorization compensation goals; ~~(iii).~~

3. There is a change in the project plans that does not result in a change in project impacts; ~~(iv).~~

4. There is a change in the mitigation bank at which credits are purchased or used, provided that the same amount of

credits are purchased or used and all criteria for use are met, as detailed in 9 VAC 25-210-115; ~~or (v) F.~~

~~5. Typographical errors need to be corrected. A notice of planned change is not required if the project results in additional temporary impacts to surface waters, provided that DEQ is notified in writing, the additional temporary impacts are restored to preexisting conditions in accordance with Part I C 11 of this general permit, and the additional temporary impacts do not exceed the general permit threshold for use. The permittee shall notify the board in advance of the planned change, and the planned change request will be reviewed according to all provisions of this regulation.~~

J. VWP general permit authorization termination for cause. This VWP general permit authorization is subject to termination for cause by the board after public notice and opportunity for a hearing. Reasons for termination for cause are as follows:

1. Noncompliance by the permittee with any condition of the VWP general permit authorization;

2. The permittee's failure in the application or during the VWP general permit authorization issuance process to disclose fully all relevant facts or the permittee's misrepresentation of any relevant facts at any time;

3. The permittee's violation of a special or judicial order; and

4. A determination that the permitted activity endangers human health or the environment and can be regulated to acceptable levels by a VWP general permit authorization planned change or termination for cause.

K. VWP general permit authorization termination by consent. This VWP general permit authorization may be terminated by consent when all permitted activities requiring notification under 9 VAC 25-690-50 A [4] *and all compensatory mitigation have been completed,* or when the authorized impacts will not occur, ~~or when a planned change occurs that involves substituting a specified, approved mitigation bank with another specified, approved mitigation bank.~~ The permittee shall submit a request for termination by consent within 30 days of project completion or project cancellation. *When submitted for project completion, the termination by consent shall constitute a notice of completion in accordance with 9 VAC 25-210-130.* The director may accept this termination of authorization on behalf of the board. The request for termination by consent shall contain the following information:

1. Name, mailing address and telephone number of the permittee;

2. Name and location of the activity;

3. The VWP permit authorization number; and

4. One of the following certifications:

a. For project completion:

"I certify under penalty of law that all activities *and any required compensatory mitigation* authorized by a VWP general permit have been completed. I understand that by submitting this notice of termination I am no longer authorized

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to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization."

b. For project cancellation:

"I certify under penalty of law that the activities *and any required compensatory mitigation* authorized by this VWP general permit will not occur. I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

c. For events beyond permittee control, the permittee shall provide a detailed explanation of the events, to be approved by DEQ, and the following certification statement:

"I certify under penalty of law that ~~all~~ *the activities or the required compensatory mitigation* authorized by a VWP general permit have changed as the result of events beyond my control (see attached). I understand that by submitting this notice of termination I am no longer authorized to perform activities in surface waters in accordance with the VWP general permit, and that performing activities in surface waters is unlawful where the activity is not authorized by a VWP permit. I also understand that the submittal of this notice does not release me from liability for any violations of this VWP general permit authorization, nor does it allow me to resume the permitted activities without reapplication and reauthorization."

L. Civil and criminal liability. Nothing in this VWP general permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

M. Oil and hazardous substance liability. Nothing in this VWP general permit shall be construed to preclude the institution of legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

N. Duty to cease or confine activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the activity for which a VWP permit has been granted in order to maintain compliance with the conditions of the VWP permit.

O. Duty to provide information.

1. The permittee shall furnish to the board any information which the board may request to determine whether cause exists for modifying, revoking, *and* reissuing and terminating the VWP permit *authorization*, or to determine compliance with the VWP permit *authorization*. The permittee shall also

furnish to the board, upon request, copies of records required to be kept by the permittee.

2. Plans, maps, conceptual reports and other relevant information shall be submitted as required by the board prior to commencing construction.

P. Monitoring and records requirements.

1. Monitoring of parameters, other than pollutants, shall be conducted according to approved analytical methods as specified in the VWP permit. Analysis of pollutants will be conducted according to 40 CFR Part 136 (2000), Guidelines Establishing Test Procedures for the Analysis of Pollutants.

2. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart or electronic recordings for continuous monitoring instrumentation, copies of all reports required by the VWP permit, and records of all data used to complete the application for the VWP permit, for a period of at least three years from the date of the expiration of a granted VWP permit. This period may be extended by request of the board at any time.

4. Records of monitoring information shall include, as appropriate:

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

b. The name of the individuals who performed the sampling or measurements;

c. The date and time the analyses were performed;

d. The name of the individuals who performed the analyses;

e. The analytical techniques or methods supporting the information such as observations, readings, calculations and bench data used;

f. The results of such analyses; and

g. Chain of custody documentation.

Q. Unauthorized discharge of pollutants. Except in compliance with this VWP general permit, it shall be unlawful for the permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances;

2. Excavate in a wetland;

3. Otherwise alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, to animal or aquatic life, to the uses of such waters for domestic or industrial consumption, for recreation, or for other uses; or

4. On and after October 1, 2001, conduct the following activities in a wetland:

a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;

- b. Filling or dumping;
- c. Permanent flooding or impounding; or
- d. New activities that cause significant alteration or degradation of existing wetland acreage or functions.

DOCUMENTS INCORPORATED BY REFERENCE

Virginia Erosion and Sediment Control Handbook, Third Edition, 1992, Department of Conservation and Recreation.

Virginia Stormwater Management Handbook, First Edition, 1999, Department of Conservation and Recreation.

VA.R. Doc. No. R05-289; Filed June 5, 2006, 12:50 p.m.

* * * * *

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

Title of Regulation: **9 VAC 25-780. Local and Regional Water Supply Planning (amending 9 VAC 25-780-30).**

Statutory Authority: § 62.1-44.38:1 of the Code of Virginia.

Effective Date: July 26, 2006.

Agency Contact: Scott Kudlas, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4456, FAX (804) 698-4347 or e-mail skudlas@deq.virginia.gov.

Supplemental Information:

The existing definition for "regional water plan" contained in 9 VAC 25-780-30 is silent on whether a water plan developed by a single town and an adjacent county can be considered a "regional" plan. Regional water plans have six years (November 2, 2011) to comply with the regulation. If developing individual water plans, localities must comply with the regulation within three to five years (November 2, 2008, through November 2, 2010) depending on their population. Chapter 18 of the 2006 Acts of Assembly states that the State Water Control Board may not adopt criteria and guidelines for water supply planning that prohibit a town and an adjacent county from developing a regional water plan. The existing definition considers plans developed by all combinations of two or more localities as a regional water plan except a town and an adjacent county.

Summary:

The amendment states clearly that a town and an adjacent county can develop a regional water plan.

9 VAC 25-780-30. Definitions.

Unless otherwise defined in this chapter or unless the context clearly indicates otherwise, the terms used in this regulation shall have the meanings ascribed to them by the State Water

Control Law, Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia; the Ground Water Management Act of 1992, Chapter 2.5 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia; the Virginia Water Protection Permit Regulation, 9 VAC 25-210 (2004); and the Surface Water Management Area Regulation, 9 VAC 25-220 (2004), including any general permits issued thereunder.

"Beneficial use" means both in-stream and offstream uses. In-stream beneficial uses include, but are not limited to, the protection of fish and wildlife habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural, electric power generation, and commercial and industrial uses.

"Board" means the State Water Control Board.

"Community water system" means a waterworks that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents, and is regulated by the Virginia Department of Health Waterworks Regulation (12 VAC 5-590).

"Conservation" means practices, techniques, and technologies that improve the efficiency of water use.

"Department" means the Department of Environmental Quality.

"Local government" means a city, incorporated town or county.

"Local program" means the combined water plan, resource conditions, and drought response and contingency plan developed in compliance with this regulation. The term "local program" will be used in this regulation to mean either local or regional programs. The term "program" implies the institution of a continuous planning process for maintenance of these documents.

"Planning area" means the geographical area as defined by local government boundaries that is included in a local or regional water supply plan.

"Planning period" means the 30- to 50-year time frame used by the locality to project future water demand in accordance with 9 VAC 25-780-100 B.

"Regional planning unit" means a collection of local governments who have voluntarily elected to develop and submit a regional water plan. A regional planning unit may be composed of all local governments located within the bounds of a planning district, any subset of local governments within the bounds of a planning district, or any group of local governments within multiple planning districts.

"Regional water plan" means a water plan developed and submitted by two or more cities or counties or both. A town and an adjacent county may develop a regional water plan. Two or more towns may develop and submit a regional water plan where the plan results in the proposed development of future water supply projects that supply the water supply demands of the affected towns. Such plans developed by two or more towns may be included in regional water plans

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developed and submitted by counties or cities. Regional water plans shall be developed and submitted in conjunction with all public service authorities operating community water systems within the regional planning unit, if applicable.

"Self-supplied user" means any person making a withdrawal of surface water or ground water from an original source (e.g., a river, stream, lake, aquifer, or reservoir fed by any such water body) for their own use. Self-supplied users do not receive water from a community water system.

"Service area" means the geographical area served by a community water system.

"Technical evaluation committee" means a committee of state agencies, including but not limited to the Department of Health, the Department of Conservation and Recreation, the Marine Resources Commission, the Department of Historic Resources, and the Department of Game and Inland Fisheries, convened by the Department of Environmental Quality in accordance with subdivision 8 of 9 VAC 25-780-60 to provide comments on the impacts to or conflicts among in-stream and offstream uses resulting from proposed alternatives for meeting projected water demands.

"Unaccounted for losses" means the difference between a community water system's billing records for volumes of water distributed and production records for volumes of water treated.

"Water demand management" means plans for water conservation, reuse, and reducing unaccounted for water losses contained in a local program.

"Water plan" means a document developed in compliance with this regulation. The term "water plan" will be used in this regulation to mean either local or regional water plans.

"Water sources" means wells, stream intakes, and reservoirs that serve as sources of water supplies.

VA.R. Doc. No. R06-256; Filed June 5, 2006, 12:49 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

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

Title of Regulation: 12 VAC 5-590. Waterworks Regulations (amending 12 VAC 5-590-530).

Statutory Authority: §§ 32.1-12 and 32.1-170 of the Code of Virginia.

Effective Date: July 26, 2006.

Agency Contact: Tamara Metzfield, Regulatory Compliance Paralegal, Department of Health, 109 Governor Street, Room 632, Richmond, VA 23219, telephone (804) 864-7499, FAX (804) 864-7520 or e-mail tamara.metzfield@vdh.virginia.gov.

Summary:

The amendment corrects a technical error made by the Virginia Department of Health during the promulgation of the Long Term Enhanced Surface Water Treatment Rule. Stage 1 requires a waterworks to provide the dates that self-assessment was triggered and completed, while the current Waterworks Regulations, as amended (effective April 6, 2005), state that the self-assessment be submitted only.

12 VAC 5-590-530. Reporting.

A. The results of any required monitoring activity shall be reported by the waterworks owner to the appropriate field office no later than the 10th day of the month following the month during which the tests were taken.

1. Waterworks required to sample quarterly must report to the appropriate field office within 10 days after the end of each quarter in which samples were collected.
2. Waterworks required to sample less frequently than quarterly must report to the appropriate field office within 10 days after the end of each monitoring period in which samples were collected.

B. It shall be the duty and responsibility of an owner to report to the appropriate field office in the most expeditious manner (usually by telephone) under the following circumstances. If it is done by telephone a confirming report shall be mailed as soon as practical.

1. When a bacteriological examination shows a repeat sample is required (see 12 VAC 5-590-380 D), a report shall be made within 48 hours. A waterworks owner must report a total coliform PMCL violation to the appropriate field office no later than the end of the next business day.
2. When the daily average of turbidity testing exceeds 5 NTU a report shall be made within 48 hours.
3. When a Primary Maximum Contaminant Level of an inorganic or organic chemical is exceeded for a single sample the owner shall report same within seven days. If any one sample result would cause the compliance average to be exceeded the owner shall report same in 48 hours.
4. When the average value of samples collected pursuant to 12 VAC 5-590-410 exceeds the Primary Maximum Contaminant Level of any organic or inorganic chemical the owner shall report same within 48 hours.
5. When the maximum contaminant level for radionuclides has been exceeded as determined by Table 2.5 the results shall be reported within 48 hours.
6. The waterworks owner shall report to the appropriate field office within 48 hours the failure to comply with the monitoring and sanitary survey requirements of this chapter.

7. The waterworks owner shall report to the appropriate field office within 48 hours the failure to comply with the requirements of any schedule prescribed pursuant to a variance or exemption.

8. The waterworks owner shall report a Tier 1 violation or situation, as described in 12 VAC 5-590-540 A 1, to the appropriate field office as soon as practical, but no later than 24 hours after the waterworks learns of the Tier 1 violation or situation. At the same time the report is made, the owner shall consult with the field office to determine the need for any additional actions to address the violation or situation.

9. The waterworks owner shall report a violation of treatment technique requirement resulting from a single exceedance of the maximum allowable turbidity limit, as described in 12 VAC 5-590-420 B 2 a (2), B 2 a (3) (b), B 2 b (2), B 2 c (2), and B 2 d, to the appropriate field office as soon as practical, but no later than 24 hours after the waterworks learns of the violation. At the same time the report is made, the owner shall consult with the field office to determine the need for any additional actions to address the violation or situation.

C. Reporting requirements for filtration treatment and disinfection treatment.

1. The owner of a waterworks that provides filtration treatment shall report monthly to the division the following specified information beginning June 29, 1993, or when filtration is installed, whichever is later.

a. Turbidity measurements as required by 12 VAC 5-590-370 B 7 a shall be reported within 10 days after the end of each month the waterworks serves water to the public. Information that shall be reported includes:

(1) The total number of filtered water turbidity measurements taken during the month.

(2) The number and percentage of filtered water turbidity measurements taken during the month which are less than or equal to the turbidity limits specified in 12 VAC 5-590-420 B 2 for the filtration technology being used.

(3) The date and value of any turbidity measurements taken during the month which exceed 5 NTU.

b. A waterworks using surface water or groundwater under the direct influence of surface water that provides conventional filtration treatment or direct filtration must report monthly to the commissioner the information specified in subdivisions C 1 a (1) and (2) of this section beginning January 1, 2002, for waterworks serving at least 10,000 people or January 1, 2005, for waterworks serving less than 10,000 people. Also, a waterworks that provides filtration approved under 12 VAC 5-590-420 B 2 d must report monthly to the commissioner the information specified in subdivision C 1 a (1) of this section beginning January 1, 2002, for waterworks serving at least 10,000 people or January 1, 2005, for waterworks serving less than 10,000 people.

(1) Turbidity measurements as required by 12 VAC 5-590-420 B 2 a (3) must be reported within 10 days after the end of each month the system serves water to the public. Information that must be reported includes:

(a) The total number of filtered water turbidity measurements taken during the month.

(b) The number and percentage of filtered water turbidity measurements taken during the month that are less than or equal to the turbidity limits specified in 12 VAC 5-590-420 B 2 a (3) or 12 VAC 5-590-420 B 2 d.

(c) The date and value of any turbidity measurements taken during the month that exceed 1 NTU for systems using conventional filtration treatment or direct filtration, or that exceed the maximum level set by the commissioner under 12 VAC 590-420 B 2 d.

(2) Waterworks must maintain the results of individual filter monitoring taken under 12 VAC 5-590-370 B 7 b (1) for at least three years. Waterworks must report that they have conducted individual filter turbidity monitoring under 12 VAC 5-590-370 B 7 b (1) within 10 days after the end of each month the waterworks system serves water to the public. Waterworks must report individual filter turbidity measurement results taken under 12 VAC 5-590-370 B 7 b (1) within 10 days after the end of each month the waterworks serves water to the public only if measurements demonstrate one or more of the conditions in subdivisions C 1 b (2) (a) or (b) of this section. Waterworks that use lime softening may apply to the commissioner for alternative exceedance levels for the levels specified in subdivisions C 1 b (2) (a) or (b) of this section if they can demonstrate that higher turbidity levels in individual filters are due to lime carryover only and not due to degraded filter performance.

(a) For waterworks serving 10,000 or more people:

(i) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must either produce a filter profile for the filter within seven days of the exceedance (if the waterworks is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(ii) For any individual filter that has a measured turbidity level of greater than 0.5 NTU in two consecutive measurements taken 15 minutes apart at the end of the first four hours of continuous filter operation after the filter has been backwashed or otherwise taken offline, the waterworks must report the filter number, the turbidity, and the date, or

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dates, on which the exceedance occurred. In addition, the waterworks must either produce a filter profile for the filter within seven days of the exceedance (if the waterworks is not able to identify an obvious reason for the abnormal filter performance) and report that the profile has been produced or report the obvious reason for the exceedance.

(iii) For any individual filter that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must conduct a self-assessment of the filter within 14 days of the exceedance and report that the self-assessment was conducted. The self-assessment must consist of at least the following components: assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report.

(iv) For any individual filter that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the waterworks must report the filter number, the turbidity measurement, and the date, or dates, on which the exceedance occurred. In addition, the waterworks must arrange for the conduct of a comprehensive performance evaluation by the commissioner or a third party approved by the commissioner no later than 30 days following the exceedance and have the evaluation completed and submitted to the commissioner no later than 90 days following the exceedance.

(b) For waterworks serving less than 10,000 people:

(i) For any individual filter (or the turbidity of combined filter effluent for systems with two filters that monitor combined filter effluent in lieu of individual filters) that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart, the waterworks must report the filter number(s), the turbidity measurement(s), and the date, or dates, on which the exceedance occurred and the cause (if known) for the exceedance(s).

(ii) For any individual filter (or the turbidity of combined filter effluent for systems with two filters that monitor combined filter effluent in lieu of individual filters) that has a measured turbidity level of greater than 1.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of three consecutive months, the waterworks must conduct a self-assessment of the filter(s) within 14 days of the day the filter

exceeded 1.0 NTU unless a comprehensive performance evaluation as specified in paragraph (iii) of this section was required. Waterworks with two filters that monitor the combined filter effluent in lieu of individual filters must conduct a self assessment on both filters. The self-assessment must be reported to the commissioner and consist of at least the following components: *date self-assessment was triggered*, *date the self-assessment was completed*, assessment of filter performance; development of a filter profile; identification and prioritization of factors limiting filter performance; assessment of the applicability of corrections; and preparation of a filter self-assessment report. The self assessment must be submitted within 10 days after the end of the month or 14 days after the self assessment was triggered only if it was triggered during the last four days of the month.

(iii) For any individual filter (or the turbidity of combined filter effluent for systems with two filters that monitor combined filter effluent in lieu of individual filters) that has a measured turbidity level of greater than 2.0 NTU in two consecutive measurements taken 15 minutes apart at any time in each of two consecutive months, the waterworks must arrange for a comprehensive performance evaluation by the commissioner or a third party approved by the commissioner no later than 60 days following the day the filter exceeded 2.0 NTU in two consecutive months. The waterworks must report within 10 days after the end of the month that a comprehensive performance evaluation is required and the date that it was triggered. If a comprehensive performance evaluation has been completed by the commissioner or a third party approved by the commissioner within the 12 prior months or the waterworks and the commissioner are jointly participating in an ongoing Comprehensive Technical Assistance project at the waterworks, a new comprehensive performance evaluation is not required. If conducted, a comprehensive performance evaluation must be completed and submitted to the commissioner no later than 120 days following the day the filter exceeded 2.0 NTU in two consecutive measurements for the second straight month.

2. Disinfection information specified below shall be reported to the division within 10 days after the end of each month the waterworks serves water to the public. Information that shall be reported includes:

a. For each day, the lowest measurement of residual disinfectant concentration in mg/l in water entering the distribution system.

b. The date and duration of each period when the residual disinfectant concentration in water entering the distribution system fell below 0.2 mg/l and when the division was notified of the occurrence.

c. The following information on the samples taken in the distribution system in conjunction with total coliform monitoring pursuant to 12 VAC 5-590-420 B.

- (1) Number of instances where the residual disinfectant concentration is measured;
- (2) Number of instances where the residual disinfectant concentration is not measured but HPC is measured;
- (3) Number of instances where the residual disinfectant concentration is measured but not detected and no HPC is measured;
- (4) Number of instances where no residual disinfectant concentration is detected and where HPC is greater than 500/mL;
- (5) Number of instances where the residual disinfectant concentration is not measured and HPC is greater than 500/mL;
- (6) For the current and previous month the system serves water to the public, the value of "V" in percent in the following formula:

$$V = \frac{c + d + e}{a + b} \times 100$$

- a = the value in subdivision C 2 c (1) of this section
- b = the value in subdivision C 2 c (2) of this section
- c = the value in subdivision C 2 c (3) of this section
- d = the value in subdivision C 2 c (4) of this section
- e = the value in subdivision C 2 c (5) of this section

(7) If the division determines, based on site specific considerations, that a waterworks owner has no means for having a sample transported and analyzed for HPC by a certified laboratory within the requisite time and temperature conditions and that the waterworks is providing adequate disinfection in the distribution system, the requirements of subdivision C 2 c (1) through (6) of this section do not apply.

d. A waterworks owner need not report the data listed in subdivision C 2 a of this section if all data listed in subdivisions C 2 a through c of this section remain on file at the waterworks and the division determines that the waterworks owner has submitted all of the information required by subdivisions C 2 a through c of this section for the last 12 months.

3. If at any time the chlorine residual falls below 0.2 mg/l in the water entering the distribution system, the waterworks owner shall notify the division as soon as possible, but no later than by the end of the next business day. The waterworks owner also shall notify the division by the end of the next business day whether or not the residual was restored to at least 0.2 mg/l within four hours.

D. Reporting requirements for lead and copper. All waterworks owners shall report all of the following information to the appropriate field office in accordance with this section.

1. Reporting requirements for tap water monitoring for lead and copper and for water quality parameter monitoring.

a. A waterworks owner shall report the information specified below for all tap water samples within the first 10 days following the end of each applicable monitoring period specified in 12 VAC 5-590-370 B 6 a, b and c (i.e., every six months, annually, or every three years).

(1) The results of all tap samples for lead and copper including location or a location site code and the criteria under 12 VAC 5-590-370 B 6 a (1) (c), (d), (e), (f) and/or (g) under which the site was selected for the waterworks' sampling pool;

(2) A certification that each first draw sample collected by the waterworks is one-liter in volume and, to the best of their knowledge, has stood motionless in the service line, or in the interior plumbing of a sampling site, for at least six hours;

(3) Where residents collected samples, a certification that each tap sample collected by the residents was taken after the waterworks owner informed them of proper sampling procedures specified in 12 VAC 5-590-370 B 6 a (2) (b);

(4) The 90th percentile lead and copper concentrations measured from among all lead and copper tap water samples collected during each monitoring period (calculated in accordance with 12 VAC 5-590-410 E 3);

(5) With the exception of initial tap sampling conducted pursuant to 12 VAC 5-590-370 B 6 a (4) (a), the waterworks owner shall designate any site which was not sampled during previous monitoring periods, and include an explanation of why sampling sites have changed;

(6) The results of all tap samples for pH, and where applicable, alkalinity, calcium, conductivity, temperature, and orthophosphate or silica collected under 12 VAC 5-590-370 B 6 b (2) through (5);

(7) The results of all samples collected at the entry point(s) to the distribution system for applicable water quality parameters under 12 VAC 5-590-370 B 6 b (2) through (5).

b. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each community waterworks which does not complete the targeted sampling pool with tier 1 sampling sites meeting the criteria in 12 VAC 5-590-370 B 6 a (1) (c) shall send a letter to the appropriate field office justifying the selection of tier 2 and/or tier 3 sampling sites under 12 VAC 5-590-370 B 6 a (1) (d) and/or (e).

c. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each nontransient, noncommunity waterworks which does not complete the sampling pool with tier 1 sampling sites

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meeting the criteria in 12 VAC 5-590-370 B 6 a (1) (f) shall send a letter to the appropriate field office justifying the selection of sampling sites under 12 VAC 5-590-370 B 6 a (1) (g).

d. By the applicable date in 12 VAC 5-590-370 B 6 a (4) (a) for commencement of monitoring, the owner of each waterworks with lead service lines that is not able to locate the number of sites served by such lines required under 12 VAC 5-590-370 B 6 a (1) (b) (i) shall send a letter to the appropriate field office demonstrating why the owner was unable to locate a sufficient number of such sites based upon the information listed in 12 VAC 5-590-370 B 6 a (1) (b).

e. Each waterworks owner who requests that the commissioner reduce the number and frequency of sampling shall provide the information required under 12 VAC 5-590-370 B 6 a (4) (d).

2. Water supply (source water) monitoring reporting requirements.

a. A waterworks owner shall report the sampling results for all source water samples collected in accordance with 12 VAC 5-590-370 B 6 c within the first 10 days following the end of each source water monitoring period (i.e., annually, per compliance period, per compliance cycle) specified in 12 VAC 5-590-370 B 6 c.

b. With the exception of the first round of source water sampling conducted pursuant to 12 VAC 5-590-370 B 6 c (2), the waterworks owner shall specify any site which was not sampled during previous monitoring periods, and include an explanation of why the sampling point has changed.

3. Corrosion control treatment reporting requirements. By the applicable dates under 12 VAC 5-590-420 C 2, waterworks owners shall report the following information:

a. For waterworks demonstrating that they have already optimized corrosion control, information required in 12 VAC 5-590-420 C 2 b (2) or (3).

b. For waterworks required to optimize corrosion control, the owner's recommendation regarding optimal corrosion control treatment under 12 VAC 5-590-420 C 1 a.

c. For waterworks required to evaluate the effectiveness of corrosion control treatments under 12 VAC 5-590-420 C 1 c, the information required by that subdivision.

d. For waterworks required to install optimal corrosion control designated by the commissioner under 12 VAC 5-590-420 C 1 d (1), a letter certifying that the owner has completed installing that treatment.

4. Water supply source water treatment reporting requirements. By the applicable dates in 12 VAC 5-590-420 D, waterworks owners shall provide the following information to the appropriate field office:

a. If required under 12 VAC 5-590-420 D 2 a, the owner's recommendation regarding source water treatment;

b. For waterworks required to install source water treatment under 12 VAC 5-590-420 D 2 b, a letter certifying that the waterworks has completed installing the treatment designated by the commissioner within 24 months after the commissioner designated the treatment.

5. Lead service line replacement reporting requirements. Waterworks owners shall report the following information to the appropriate field office to demonstrate compliance with the requirements of 12 VAC 5-590-420 E:

a. Within 12 months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, the owner shall demonstrate in writing to the appropriate field office that the owner has conducted a materials evaluation, including the evaluation in 12 VAC 5-590-370 B 6 a (1), to identify the initial number of lead service lines in the distribution system, and shall provide the appropriate field office with the waterworks' schedule for replacing annually at least 7.0% of the initial number of lead service lines in its distribution system.

b. Within 12 months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, and every 12 months thereafter, the waterworks owner shall demonstrate to the appropriate field office in writing that the waterworks owner has either:

(1) Replaced in the previous 12 months at least 7.0% of the initial lead service lines (or a greater number of lines specified by the commissioner under 12 VAC 5-590-420 E 6) in the distribution system, or

(2) Conducted sampling which demonstrates that the lead concentration in all service line samples from an individual line(s), taken pursuant to 12 VAC 5-590-370 B 6 a (7) (c), is less than or equal to 0.015 mg/l. In such cases, the total number of lines replaced and/or which meet the criteria in 12 VAC 5-590-420 E 3 shall equal at least 7.0% of the initial number of lead lines identified under subdivision D 5 a of this section (or the percentage specified by the commissioner under 12 VAC 5-590-420 E 6).

c. The annual letter submitted to the appropriate field office under subdivision D 5 b of this section shall contain the following information:

(1) The number of lead service lines scheduled to be replaced during the previous year of the waterworks' replacement schedule;

(2) The number and location of each lead service line replaced during the previous year of the waterworks' replacement schedule;

(3) If measured, the water lead concentration and location of each lead service line sampled, the sampling method, and the date of sampling.

d. As soon as practicable, but in no case later than three months after a waterworks exceeds the lead action level in sampling referred to in 12 VAC 5-590-420 E 1, any waterworks owner seeking to rebut the presumption that it has control over the entire lead service line pursuant to 12 VAC 5-590-420 E 4 shall submit a letter to the

appropriate field office describing the legal authority (e.g., state statutes, municipal ordinances, public service contracts or other applicable legal authority) which limits the waterworks owner's control over the service lines and the extent of the waterworks owner's control.

6. Public education program reporting requirements. By December 31st of each year, the owner of any waterworks that is subject to the public education requirements in 12 VAC 5-590-420 F shall submit a letter to the appropriate field office demonstrating that the waterworks owner has delivered the public education materials that meet the content requirements in 12 VAC 5-590-420 F 1 and 2 and the delivery requirements in 12 VAC 5-590-420 F 3. This information shall include a list of all the newspapers, radio stations, television stations, facilities and organizations to which the owner delivered public education materials during the previous year. The owner shall submit the letter required by this subdivision annually for as long as it exceeds the lead action level.

7. Reporting of additional monitoring data. The owner of any waterworks which collects sampling data in addition to that required by this subpart shall report the results to the appropriate field office within the first 10 days following the end of the applicable monitoring period under 12 VAC 5-590-370 B 6 a, b and c during which the samples are collected.

E. Reporting requirements for disinfection byproducts. Waterworks must report the following information in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the PMCL was violated, in lieu of having the waterworks report that information):

1. A waterworks monitoring for TTHM and HAA5 under the requirements of 12 VAC 5-590-370 B 3 a on a quarterly or more frequent basis must report:

- a. The number of samples taken during the last quarter.
- b. The location, date, and result of each sample taken during the last quarter.
- c. The arithmetic average of all samples taken in the last quarter.
- d. The annual arithmetic average of the quarterly arithmetic averages of this section for the last four quarters.
- e. Whether, based on 12 VAC 5-590-410 C 2 b, the PMCL was violated.

2. A waterworks monitoring for TTHMs and HAA5 under the requirements of 12 VAC 5-590-370 B 3 a less frequently than quarterly (but at least annually) must report:

- a. The number of samples taken during the last year.
- b. The location, date, and result of each sample taken during the last monitoring period.
- c. The arithmetic average of all samples taken over the last year.

d. Whether, based on 12 VAC 5-590-410 C 2 b the PMCL was violated.

3. A waterworks monitoring for TTHMs and HAA5 under the requirements of 12 VAC 5-590-370 B 3 a less frequently than annually must report:

- a. The location, date, and result of the last sample taken.
- b. Whether, based on 12 VAC 5-590-410 C 2 b, the PMCL was violated.

4. A waterworks monitoring for chlorite under the requirements of 12 VAC 5-590-370 B 3 f must report:

- a. The number of entry point samples taken each month for the last three months.
- b. The location, date, and result of each sample (both entry point and distribution system) taken during the last quarter.
- c. For each month in the reporting period, the arithmetic average of all samples taken in each three sample set taken in the distribution system.
- d. Whether, based on 12 VAC 5-590-410 C 2 b, the PMCL was violated, in which month and how many times it was violated each month.

5. A waterworks monitoring for bromate under the requirements of 12 VAC 5-590-370 B 3 g must report:

- a. The number of samples taken during the last quarter.
- b. The location, date, and result of each sample taken during the last quarter.
- c. The arithmetic average of the monthly arithmetic averages of all samples taken in the last year.
- d. Whether, based on 12 VAC 5-590-410 C 2 b, the PMCL was violated.

F. Reporting requirements for disinfectants. Waterworks must report the information specified below in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the MRDL was violated, in lieu of having the waterworks report that information):

1. A waterworks monitoring for chlorine or chloramines under the requirements of 12 VAC 5-590-370 B 3 h must report:

- a. The number of samples taken during each month of the last quarter.
- b. The monthly arithmetic average of all samples taken in each month for the last 12 months.
- c. The arithmetic average of all monthly averages for the last 12 months.
- d. Whether, based on 12 VAC 5-590-410 C 2 c, the MRDL was violated.

2. A waterworks monitoring for chlorine dioxide under the requirements of 12 VAC 5-590-370 B 3 h must report:

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a. The dates, results, and locations of samples taken during the last quarter.

b. Whether, based on 12 VAC 5-590-410 C 2 c, the MRDL was violated.

c. Whether the MRDL was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.

G. Reporting requirements for disinfection byproduct precursors and enhanced coagulation or enhanced softening. Waterworks must report the following information in accordance with subsection A of this section. (The field office may choose to perform calculations and determine whether the treatment technique was met, in lieu of having the waterworks report that information):

1. A waterworks monitoring monthly or quarterly for TOC under the requirements of 12 VAC 5-590-370 B 3 i and required to meet the enhanced coagulation or enhanced softening requirements in 12 VAC 5-590-420 H 2 b or c must report:

a. The number of paired (source water and treated water) samples taken during the last quarter.

b. The location, date, and results of each paired sample and associated alkalinity taken during the last quarter.

c. For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal.

d. Calculations for determining compliance with the TOC percent removal requirements, as provided in 12 VAC 5-590-420 H 3 a.

e. Whether the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in 12 VAC 5-590-420 H 2 a for the last four quarters.

2. A waterworks monitoring monthly or quarterly for TOC under the requirements of 12 VAC 5-590-370 B 3 i and meeting one or more of the alternative compliance criteria in 12 VAC 5-590-420 H 1 b or c must report:

a. The alternative compliance criterion that the system is using.

b. The number of paired samples taken during the last quarter.

c. The location, date, and result of each paired sample and associated alkalinity taken during the last quarter.

d. The running annual arithmetic average based on monthly averages (or quarterly samples) of source water TOC for systems meeting a criterion in 12 VAC 5-590-420 H 1 b (1) or (3) or of treated water TOC for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (2).

e. The running annual arithmetic average based on monthly averages (or quarterly samples) of source water SUVA for systems meeting the criterion in 12 VAC 5-590-

420 H 1 b (5) or of treated water SUVA for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (6).

f. The running annual average of source water alkalinity for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (3) and of treated water alkalinity for systems meeting the criterion in 12 VAC 5-590-420 H 1 c (1).

g. The running annual average for both TTHM and HAA5 for systems meeting the criterion in 12 VAC 5-590-420 H 1 b (3) or (4).

h. The running annual average of the amount of magnesium hardness removal (as CaCO₃, in mg/l) for systems meeting the criterion in 12 VAC 5-590-420 H 1 c (2).

i. Whether the system is in compliance with the particular alternative compliance criterion in 12 VAC 5-590-420 H 1 b or c.

H. Reporting of analytical results to the appropriate field office will not be required in instances where the state laboratory performs the analysis and reports same to that office.

I. Recycle flow reporting requirements. Any waterworks supplied by a surface water source and waterworks supplied by a groundwater source under the direct influence of surface water that employ conventional filtration or direct filtration treatment must notify the state in writing by December 8, 2003, if the system recycles spent filter backwash water, thickener supernatant, or liquids from dewatering processes. This notification must include, as a minimum:

1. A plant schematic showing the origin of all flows that are recycled, including but not limited to spent filter backwash water, thickener supernatant, and liquids from dewatering processes. The schematic shall also specify the hydraulic conveyance used to transport all recycle flows and the location where recycle flows are reintroduced back into the treatment plant.

2. Typical recycle flow in gallons per minute (gpm), the highest observed plant flow experienced in the previous year (gpm), design flow for the treatment plant (gpm), and state-approved operating capacity for the plant.

J. Information to be included on the operation monthly report shall be determined by the division for each waterworks on an individual basis. Appendix G contains suggested monthly operation report requirements.

VA.R. Doc. No. R06-255; Filed June 5, 2006, 2:27 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

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

Titles of Regulations: 18 VAC 65-20. Regulations of the Board of Funeral Directors and Embalmers (amending 18 VAC 65-20-60, 18 VAC 65-20-500 and 18 VAC 65-20-580).

18 VAC 65-40. Regulations for the Funeral Service Internship Program (amending 18 VAC 65-40-10, 18 VAC 65-40-40, 18 VAC 65-40-90, 18 VAC 65-40-110, 18 VAC 65-40-130, 18 VAC 65-40-160, 18 VAC 65-40-180, 18 VAC 65-40-201, 18 VAC 65-40-220, 18 VAC 65-40-280, 18 VAC 65-40-300, 18 VAC 65-40-320, 18 VAC 65-40-330 and 18 VAC 65-40-340).

Statutory Authority: § 54.1-2400 and Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: July 26, 2006.

Agency Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9943 or e-mail elizabeth.young@dhp.virginia.gov.

Summary:

Regulations of the Board of Funeral Directors and Embalmers refer to resident trainees and traineeship programs in funeral service. Chapter 56 of the 2006 Acts of the Assembly amended Chapter 28 (§ 54.1-2800 et seq.) of Title 54.1 of the Code of Virginia to change the terminology to a funeral service intern or an internship in funeral service. Accordingly, all such references in 18 VAC 65-20 and 18 VAC 65-40 are amended for conformity with changes in the Code of Virginia.

18 VAC 65-20-60. Accuracy of information.

A. All changes of mailing address, name, place of employment, or change in establishment ownership, manager, or name shall be furnished to the board within 30 days after the change occurs.

B. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board and

shall not relieve the licensee, ~~trainee~~ funeral service intern, establishment, or firm of obligation to comply.

18 VAC 65-20-500. Disciplinary action.

In accordance with the provisions of § 54.1-2806 of the Code of Virginia, the following practices are considered unprofessional conduct and may subject the licensee to disciplinary action by the board:

1. Breach of confidence. The unnecessary or unwarranted disclosure of confidences by the funeral licensee.

2. Unfair competition.

a. Interference by a funeral service licensee, funeral director, or registered surface transportation and removal service when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.

b. Consent by a funeral service licensee or funeral director to take charge of a body unless authorized by the person or his agent having the legal right to disposition.

3. False advertising.

a. No licensee or registrant shall make, publish, disseminate, circulate or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

b. The following practices, both written and verbal, shall constitute false, deceptive, or misleading advertisement within the meaning of subdivision 4 of § 54.1-2806 of the Code of Virginia:

(1) Advertising containing inaccurate statements; and

(2) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.

c. The following practices are among those which shall constitute an untrue, deceptive, and misleading representation or statement of fact:

(1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long term or indefinite time; and

(2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.

4. Inappropriate handling of dead human bodies. Transportation and removal vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation. During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.

5. Failure to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and

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funeral services used in connection with the disposition of deceased human bodies.

6. Conducting the practice of funeral services in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public.

7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

8. Failure to register as a supervisor for a ~~resident trainee funeral service intern~~ or failure to provide reports to the board as required by the Code of Virginia and 18 VAC 65-40.

9. Failure to comply with applicable federal and state laws and regulations, including requirements for continuing education.

18 VAC 65-20-580. Preparation room equipment.

The preparation room or rooms shall be equipped with:

1. A ventilation system which operates and is appropriate to the size and function of the room;
2. Running hot and cold water;
3. Flush or slop sink connected with public sewer or with septic tank where no public sewer is available;
4. Metal, fiberglass or porcelain morgue table;
5. Covered waste container;
6. Instruments and apparatus for the embalming process;
7. A means or method for the sterilization of reusable instruments by chemical bath or soak; autoclave (steam); or ultraviolet light;
8. Disinfectants and antiseptic solutions;
9. Clean gowns or aprons, preferably impervious to water;
10. Rubber gloves for each embalmer or ~~trainee intern~~ using the room;
11. An electric aspirator or hydroaspirator equipped with a vacuum breaker;
12. An eye wash station that is readily accessible; and
13. A standard first aid kit which is immediately accessible outside the door to the preparation room.

CHAPTER 40.
~~RESIDENT TRAINEE PROGRAM REGULATIONS FOR THE~~
FUNERAL SERVICE INTERNSHIP PROGRAM.

PART I.
GENERAL PROVISIONS.

18 VAC 65-40-10. Definitions.

In addition to words and terms defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Direct supervision" means that a licensed funeral service professional is present and on the premises of the facility.

"Full-time school attendance" means that the individual attending mortuary science school is enrolled in 12 or more semester hours of coursework per semester.

"Supervisor" means a licensed employee at the training site who has been approved by the board to provide supervision for the ~~resident trainee funeral intern~~.

"Training site" means the licensed funeral establishment which has agreed to serve as the location for ~~resident training a funeral service internship~~ and has been approved by the board ~~for the training~~.

18 VAC 65-40-40. Fees.

A. The following fees shall be paid as applicable for registration:

- | | |
|--|------|
| 1. Funeral service resident trainee intern registration, reinstatement or renewal | \$75 |
| 2. Late fee for renewal up to 30 days after expiration | \$25 |
| 3. Duplicate copy of trainee intern registration | \$25 |
| 4. Returned check | \$35 |
| 5. Change of supervisor | \$15 |

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

18 VAC 65-40-90. Renewal of registration.

A. The ~~resident trainee funeral service intern~~ registration shall expire on January 31 of each calendar year and may be renewed by submission of the renewal notice and prescribed fee.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration. No credit will be allowed for a ~~traineeship~~ *an internship* period served under an expired registration.

C. The ~~resident trainee funeral service intern~~ is responsible for notifying the board of any changes in name, address, employment, or supervisor. Any notices shall be validly given when mailed to the address on record with the board.

18 VAC 65-40-110. Reinstatement of expired registration.

A. The board may consider reinstatement of an expired registration for up to three years following expiration. A written application request for reinstatement shall be submitted to the board and shall include payment of all applicable fees.

B. When a registration is not reinstated within three years of its expiration date, a new application for registration shall be filed and a new ~~training program~~ *internship* begun.

PART II.
~~TRAINEE PROGRAM~~ FUNERAL SERVICE INTERNSHIP
 REQUIREMENTS.

18 VAC 65-40-130. Resident training Funeral service internship.

- A. The ~~trainee program~~ *internship* shall consist of at least 18 months of ~~resident~~ training.
- B. An individual may hold an active ~~traineeship~~ *internship* registration for a maximum of 48 months from the date of initial registration for the ~~traineeship~~ *internship* program. The board, in its discretion, may grant an extension of the ~~traineeship~~ *internship* registration.
- C. A ~~resident trainee~~ *funeral service intern* shall not attend school full time while serving his ~~traineeship~~ *internship*.

18 VAC 65-40-160. Trainee Intern work schedule.

Every ~~resident trainee~~ *funeral service intern* shall be assigned a full-time work schedule of at least 40 hours each week in order to obtain credit for such training. The ~~trainee~~ *intern* shall be required to receive training in all areas of funeral service. Additional and further hours may be at the discretion of the supervisor or may be a requirement of the facility.

18 VAC 65-40-180. Trainee Intern application package.

- A. Any person who meets the qualifications of § 54.1-2817 of the Code of Virginia may seek registration with the board as a ~~trainee under the Program for Training of Resident Trainees~~ *funeral service intern* by submission of an application package, which shall include documentation of the qualifications and signatures of any supervising licensees.
- B. With the exception of school transcripts, all parts of an application package, including the required fee and any additional documentation as may be required to determine eligibility, shall be submitted simultaneously.

18 VAC 65-40-201. Failure to register.

If the ~~resident traineeship~~ *internship* is not approved by the board prior to initiation of training, no credit shall be allowed for the length of time served.

18 VAC 65-40-220. Qualifications of training site.

The board shall approve only an establishment or two combined establishments to serve as the training site or sites which:

1. Have a full and unrestricted Virginia license;
2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and
3. Have 35 or more funerals and 35 or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the ~~resident trainee~~ *funeral service intern* may seek approval for an additional training site.

18 VAC 65-40-280. Supervisor application package.

- A. A licensee seeking approval by the board as a supervisor shall submit a completed application and any additional documentation as may be required to determine eligibility.
- B. The application for supervision of a ~~resident trainee~~ *funeral service intern* shall be signed by the establishment manager and by the persons who will be providing supervision for embalming and for the funeral services.

18 VAC 65-40-300. Interruption and reinstatement.

- A. If the program is interrupted, the ~~trainee~~ *intern* shall obtain a new supervisor and submit a new application for approval.
- B. Credit shall only be allowed for training under direct supervision. Credit for training shall resume when a new supervisor is approved by the board and the applicant has been reinstated.

18 VAC 65-40-320. Reports to the board: six-month report; partial report.

- A. The ~~trainee~~ *intern*, the supervisor or supervisors, and the establishment shall submit a written report to the board at the end of every six months of training. The report shall:
 1. Verify that the ~~trainee~~ *intern* has actually served in the required capacity during the preceding six months; and
 2. Be received in the board office no later than 10 days following the end of the six-month period. Late reports may result in additional time being added to the ~~traineeship~~ *internship*.
- B. If the ~~training program~~ *internship* is terminated or interrupted prior to completion of a six-month period, the ~~trainee~~ *intern* and the supervisor shall submit a partial report to the board with a written explanation of the cause of program termination or interruption.

1. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given in increments of one month.
2. Partial reports shall be received in the board office no later than 10 days after the interruption or termination of the ~~trainee program~~ *internship*. Credit may be deducted for late reports.

18 VAC 65-40-330. Failure to submit training report.

If the ~~trainee~~ *intern*, supervisor, or establishment manager fails to submit the reports required in 18 VAC 65-40-320, the ~~trainee~~ *intern* may forfeit all or partial credit for training or disciplinary action may be taken against the ~~trainee~~ *intern*, supervisor and establishment manager.

PART III.
~~TRAINING PROGRAM~~ INTERNSHIP: FUNERAL
 SUPERVISORS' RESPONSIBILITIES.

18 VAC 65-40-340. Supervisors' responsibilities.

- A. The supervisor shall provide the ~~trainee~~ *intern* with all applicable laws and regulations or sections of regulations relating to the funeral industry.

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B. The supervisor shall provide the ~~trainee~~ *intern* with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.

C. The supervisor shall provide the ~~trainee~~ *intern* with instruction in all aspects of funeral services and shall allow the ~~trainee~~ *intern* under direct supervision to conduct all necessary arrangements for a minimum of 25 funerals.

D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the ~~trainee~~ *intern* under direct supervision to perform a minimum of 25 embalmings.

E. The supervisor shall provide the ~~trainee~~ *intern* with instruction in making preneed funeral arrangements and instruction on the laws and regulations pertaining to preneed funeral contracts and disclosures.

<p>NOTICE: The forms used in administering 18 VAC 65-40, Regulations for the Funeral Service Intern Program, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>
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FORMS

Checklist for the Funeral Service Intern Program (eff. 6/06).

Application for ~~Resident-Trainee~~ *Funeral Service Intern* Program (rev. ~~4/02~~ 6/06).

Application for Change of Supervisor: ~~Resident-Trainee~~ *Funeral Service Intern* Program (rev. ~~4/02~~ 6/06).

Renewal Notice and Application 0505 ~~Funeral Trainees~~ *Service Interns* (rev. ~~2002~~ 6/06).

**CHECKLIST FOR THE FUNERAL SERVICE INTERN
PROGRAM**

To be registered as a funeral service intern, the items listed below must be submitted to the Board.

PLEASE SUBMIT THE FOLLOWING:

- Two page application
- Application fee of \$100.00 made payable to the Treasurer of Virginia
- An official copy of high school transcript, G.E.D., or mortuary school transcript

{If you have any questions, you may contact the Board of Funeral Directors and Embalmers at (804) 662-7390.}

NOTE: All documents must be official. Photocopies and faxes are not acceptable.

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Rev. 6/06



Application for Funeral Service Intern Program

FEE: \$100

To the Board of Funeral Directors and Embalmers

I hereby make application for the funeral service intern program in the Commonwealth of Virginia and submit the following statements:

1. Name in Full (Please Print or Type)

Last		First	Middle (Maiden)	
Street		City	State	ZIP Code
Date of Birth Mo. Day Yr.	Home Phone: Work Phone:		Social Security No. or VA Control No.* E-Mail address:	
Mortuary School and/or High School	Graduation Date	Address	City	State

*In accordance with §54.1-116 Code of Virginia, you are required to submit your Social Security Number or your control number** issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided by law. Federal and state law requires that this number be shared with other state agencies for child support enforcement activities. **NO LICENSE WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.**

**In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure to DMV of your Social Security Number will be required to obtain this number.

2. Internship Site Information:

Establishment Name	License Number	Manager's Name	
		License Number:	
Street	City	State	ZIP Code
Funeral Service Supervisor License Number:	Embalming Supervisor: License Number:		
Date Employment Began	Total Hours Scheduled to Work Each Week		

Please submit address changes in writing immediately.
 Please attach check or money order. Application will not be processed without the fee. It will be returned.
 Do not submit fee without an application. **IT WILL BE RETURNED.**

QUESTIONS MUST BE ANSWERED. If any of the following questions (3-10) is answered **Yes**, explain and or substantiate with documentation.

3. List all jurisdictions in which you have been issued a license to practice funeral service: active, inactive or expired. Indicate number and date issued.

4. Have you ever been denied a funeral service license? _____

5. Have you ever been convicted of a violation of/or pled Nolo Contendere to any federal, state or local statute, regulation or ordinance, or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except convictions for driving under the influence.) _____

6. Have you ever had any of the following disciplinary actions taken against your license to practice funeral service or any such actions pending? (a) suspension/revocation (b) probation (c) reprimand/cease and desist (d) had your practice monitored? _____

7. Have you ever had any membership in a state or local professional society revoked, suspended, or sanctioned? _____

8. Have you been physically or emotionally dependent upon the use of alcohol/drugs or treated by, consulted with, or been under the care of a professional for any substance abuse within the last two years? If so, please provide a letter from the treating professional. _____

9. Do you have a physical disease, mental disorder, or any condition, which could affect your performance of professional duties? If so, provide a letter from your treating professional to include diagnosis, treatment, prognosis and fitness to practice.

10. AFFIDAVIT OF APPLICANT (THIS SECTION MUST BE NOTARIZED)

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Funeral Directors and Embalmers any information, files or records requested by the Board in connection with the processing of individuals and groups listed above, any information, which is material to my application and me. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application, I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice Funeral service in the Commonwealth of Virginia.

Signature of Applicant

City/County of _____ State of _____

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission expires _____.

NOTARY SEAL

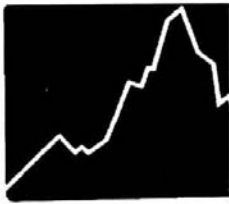
Signature of Notary Public

APPLICANTS DO NOT USE SPACES BELOW THIS LINE – FOR OFFICE USE ONLY

APPROVED BY _____

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COMMONWEALTH OF VIRGINIA Board of Funeral Directors and Embalmers

Department of Health Professions
6603 West Broad Street
Richmond, Virginia 23230

(804) 662-9907

Application for Change of Supervisor: Funeral Service Intern Program

FEE: \$25

To the Board of Funeral Directors and Embalmers

I hereby make application for the funeral service intern program in the Commonwealth of Virginia and submit the following statements:

1. Intern Name in Full (Please Print or Type): Registration Number:

Last	First	Middle (Maiden)	
Street	City	State	ZIP Code
Area Code and Telephone Number:	Date of Employment:		

2. Supervisor Information:

Establishment Name and License Number:	#of Funeral Services Conducted in the Past Year: _____	#of Embalming procedures performed at establishment in the past year: _____
Establishment Manager's Name:	License Number:	
Funeral Service Supervisor License Number:	Embalming Supervisor: License Number:	
Date Employment Began	Total Hours Scheduled to Work Each Week	

Please submit address changes in writing immediately.
Please attach check or money order. Application will not be processed without the fee. It will be returned.
Do not submit fee without an application. **IT WILL BE RETURNED.**

APPLICANTS DO NOT USE SPACES BELOW THIS LINE – FOR OFFICE USE ONLY

APPROVED BY _____

3. AFFIDAVIT OF APPLICANT (THIS SECTION MUST BE NOTARIZED)

I, _____, being first duly sworn, depose and say that I am the person referred to in the foregoing application and supporting documents.

I hereby authorize all hospitals, institutions, or organizations, my references, personal physicians, employers (past and present), business and professional associates (past and present), and all governmental agencies and instrumentalities (local, state, federal, or foreign) to release to the Virginia Board of Funeral Directors and Embalmers any information, files or records requested by the Board in connection with the processing of individuals and groups listed above, any information, which is material to my application and me. I have carefully read the questions in the foregoing application and have answered them completely, without reservations of any kind, and I declare under penalty of perjury that my answers and all statements made by me herein are true and correct. Should I furnish any false information in this application,

I hereby agree that such act shall constitute cause for the denial, suspension, or revocation of my license to practice Funeral service in the Commonwealth of Virginia.

Signature of Manager

Signature of Embalming Supervisor

Signature of Funeral Service Supervisor

City/County of _____ State of _____

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission expires _____.

NOTARY SEAL

Signature of Notary Public

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Department of Health Professions
6603 West Broad Street, Fifth Floor
Richmond, Virginia 23230-1712

Presorted
First-Class Mail
US Postage Paid
Richmond, VA
Permit No. 1902

«License_No»
Please renew at least 10 days prior to «L Expiration Date».

LICENSE RENEWAL NOTICE AND APPLICATION
Online License Renewal with Credit Card Now Available

«First Name» «Last Name»
«L_Address_Line_1»
«L_Address_Line_2»
«L_Address_Line_3»
«L_Address_Line_4»



Online License Renewal with Credit Card Now Available

Disclosure of Addresses
Some licensees have expressed concern that their residence address is accessible. Consistent with Virginia law and the mission of the Department of Health Professions addresses of licensees are made available to the public only upon request. Addresses of record are not published as part of the license record available through our website.
In most cases it is permissible for an individual to provide an address of record other than a residence, such as a Post Office Box or a practice location. Changes of address may be made at the time of renewal or at anytime by written notification to the appropriate health regulatory board. Please be advised that all notices from the board, to include renewal notices, licenses, and other legal documents, will be mailed to the address provided.

To Open - Fold & Tear Along Perforation

To Open - Fold & Tear Along Perforation

To Open - Fold & Tear Along Perforation

To Open - Fold & Tear Along Perforation

To Open This Side - Slide Finger Under This Edge

-ONLINE LICENSE RENEWAL WITH CREDIT CARD NOW AVAILABLE-

«First Name» «Last Name»		Renewal Fee—Amount «renewal fee»
«License status» «License Type» - «License No»		
Renewal Period «period from» to «period to»	Current Expiration Date: «L_Expiration_Date»	

Please take this opportunity to renew this license online and pay with a Visa or MasterCard. In doing so you will have the opportunity to sign up for future e-mail notifications to assist you in maintaining your professional license in good standing, obtain duplicate licenses and keep informed about your profession. By renewing your license this way you will be able to save money and keep abreast of important changes that will affect your practice. Please visit: www.license.dhp.state.va.us and enter your Virginia License Number («License No»), and the temporary Pin Number («Registration Code»).

Detach Here **RECEIPT—KEEP THIS PORTION FOR YOUR RECORDS—DO NOT RETURN** Detach Here

Please fold and tear on perforated line

Renewal Form for «License status» «License Type»		Amount Due: «renewal fee»
«License No»	Renewal Period: «period from» to «period to»	
«First Name» «Last Name»		
«Address Line_1» «Address Line_2» «Address Line_3» «Address Line_4»		

If Payment is Received by Board After «L_Expiration_Date», Amount Due \$100.00

Do not staple check to renewal form or fold renewal form.

«VA_Scanline»

1. If you are unable to renew online, detach "renewal form" portion and return completed form with your check in attached return envelope.
2. Make checks payable to "Treasurer of Virginia."
3. For name changes, cross out any incorrect information on the front of the renewal form, write the correct name and check the box on return envelope. Enclose a copy of your marriage license or court order for name changes.
4. Address changes, cross out any incorrect information on the front of the renewal form, write the correct address and check the box on return envelope.

Detach Along Perforation
MOISTEN AND FOLD TO SEAL

6034-122-0202 ©2004, 13000 Williams North, Fredericks, Inc. All rights reserved.
 Printed in the USA. Form No. 1 (1/01) 528 5,201 584 5,300 145 0307

If you are unable to renew online, detach and mail this form with payment.

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BOARD FOR GEOLOGY

Title of Regulation: 18 VAC 70-20. Rules and Regulations for the Virginia Board for Geology (amending 18 VAC 70-20-10, 18 VAC 70-20-30, 18 VAC 70-20-50 through 18 VAC 70-20-90, 18 VAC 70-20-110, 18 VAC 70-20-140, 18 VAC 70-20-150; adding 18 VAC 70-20-105; and repealing 18 VAC 70-20-20).

Statutory Authority: §§ 54.1-201 and 54.1-1402 of the Code of Virginia.

Effective Date: August 1, 2006.

Agency Contact: David Dick, Executive Director, Board for Geology, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, or e-mail david.dick@dpor.virginia.gov.

Summary:

The amendments (i) delete language redundant to the statutory authority of the Board for Geology; (ii) amend the language establishing the fee for the certification examination; (iii) delete the dishonored check fee, which is covered by § 2.2-614.1 of the Code of Virginia; (iv) amend the qualifications for certification to more clearly articulate the requirements that must be fulfilled prior to qualifying for certification; (v) amend the certification by reciprocity standards; (vi) add a section requiring the board to be notified in the event of a change in name or address of a regulant; and (vii) amend the grounds for certification denial or disciplinary action as the result of a criminal conviction.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18 VAC 70-20-10. Definitions.

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

"Board" means the Board for Geology.

"Geologist" means a person engaged in the public practice of geology.

"Geology" means the science dealing with (i) the earth and its history in general; (ii) the investigation, prediction, evaluation, and location of materials and structures which compose the earth; (iii) the natural processes that cause changes in the earth; and (iv) the application of knowledge of the earth, its processes, and its constituent rocks, minerals, liquids, gases and other natural materials.

"Practice of geology" means the performance of any service or work for the general public wherein the principles and methods of geology are applied.

"Qualified geologist" means an uncertified person who possesses all the qualifications specified in § 54.1-1403 of the Code of Virginia for certification.

"Related geological science degree" means a degree that shall include, but not be limited to, a degree in economic geology or petroleum geology.

"Responsible charge" means the direct control and supervision of the practice of geology.

"Supervision" means quality control review of all significant data collection, interpretation and conclusions.

"Virginia certified professional geologist" means a person who possesses all qualifications specified in this chapter for certification and whose competence has been attested by the board through certification.

~~18 VAC 70-20-20. Determining qualifications for applicants. (Repealed.)~~

~~In determining the qualifications of an applicant for certification, a majority vote of members of the board shall be required.~~

18 VAC 70-20-30. Fees.

All fees for application, examination, renewal, and reinstatement shall be established by the board pursuant to § 54.1-201 of the Code of Virginia. All fees are nonrefundable and shall not be prorated.

1. The application fee for certification shall be \$40.
2. The fee for renewal of certification shall be \$80.
3. ~~The fee for taking the examination or reexamination for certification shall be \$400.~~ The fee for examination or reexamination is subject to contracted charges to the department by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 41-35 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.
4. The penalty fee for late renewal shall be \$25 in addition to the renewal fee.
5. The reinstatement fee shall be \$160.
6. The fee for duplicate wall certificates shall be \$25.
- ~~[7. The fee for paying any of the above fees with a check or other instrument not honored by the bank or other financial institution upon which it is drawn shall be \$25.]~~

18 VAC 70-20-50. Reinstatements.

If the certificate holder fails to renew the certificate within six months following the expiration date, the certificate holder will be required to apply for reinstatement of the certificate. ~~The applicant will be required to present reasons that the certificate was allowed to expire, and the board may grant reinstatement of the certificate, or require requalification or reexamination, or both.~~ The application fee for reinstatement of a certificate shall be an amount equal to twice the renewal fee.

18 VAC 70-20-60. Status of certification during the period prior to reinstatement.

A. Reinstated certifications shall continue to have the same certification number and shall ~~be assigned an expiration date two years from the previous expiration date of the certification~~ expire on August 31 of the odd-numbered year following the date of reinstatement.

B. Reinstated certifications shall be regarded as having been continuously licensed without interruption. Therefore, the holder of the reinstated certification shall remain under the disciplinary authority of the board during this entire period and may be held accountable for his activities during this period.

C. Certifications which are not renewed or reinstated shall be regarded as expired from the date of the expiration forward.

18 VAC 70-20-70. Use of seal.

A certified professional geologist may apply a rubber stamp or preprinted seal to final and complete cover sheets and to each original sheet of plans or drawings prepared or reviewed and approved by the regulant. The seal may be applied to the cover sheet of technical reports and specifications prepared or reviewed and approved by the regulant.

1. All seal imprints on final documents shall be signed.
2. Application of the seal and signature ~~indicates~~ shall indicate acceptance of responsibility for work shown thereon.
3. The seal shall conform in detail and size to the design illustrated below:



* The number referred to is the number, usually three or four digits, as shown on the wall certificate and is the license renewal number issued each biennium as indicated on the licensee's pocket card. The number will not change every two years, but is permanent.

18 VAC 70-20-80. Qualifications for certification.

A. Each applicant for certification as a certified professional geologist in Virginia shall ~~meet the education, experience and examination requirements as specified in § 54.1-1403 of the Code of Virginia.~~ :

1. Make application on forms provided by the board;

2. Be of ethical character;

3. Hold a baccalaureate or higher degree from an accredited college or university with a major in geology, engineering geology, geological engineering or a related geological science. In the absence of one of the aforementioned degrees, each applicant shall provide evidence of the satisfactory completion of 30 semester hours (or the equivalent) of geological science courses including, but not limited to, the following subjects:

- a. Stratigraphy;
- b. Structural geology;
- c. Mineralogy;
- d. Paleontology;
- e. Petrology;
- f. Geomorphology; and
- g. Field geology.

At least 12 semester hours must have been completed in four of the seven subjects listed in this subsection.

4. Provide the board with written documentation that demonstrates that the courses satisfactorily completed by the applicant are equivalent to those required by this section.

5. Have at least seven years of geological work that shall include either a minimum of three years of geological work under the supervision of a qualified or certified professional geologist, or a minimum of three years of experience in responsible charge of geological work. The work shall include, but not be limited to, one or more of the following areas:

- a. Mineralogy.
 - (1) Identify and classify major rock types.
 - (2) Identify mineral assemblages.
 - (3) Determine probable genesis and sequence of mineral assemblages.
 - (4) Identify minerals on the basis of chemical composition.
 - (5) Predict subsurface mineral characteristics on the basis of exposures and drillholes.
- b. Petrography/petrology.
 - (1) Identify and classify major rock types.
 - (2) Determine physical properties of rocks.
 - (3) Determine chemical properties of rocks.
 - (4) Determine types or degrees of rock alteration.
 - (5) Determine suites of rock types.
- c. Geochemistry.
 - (1) Establish analytical objectives and approaches.

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(2) Evaluate geochemical data.

(3) Construct models based on results of geochemical analysis.

(4) Make recommendations based upon results of geochemical analyses.

d. Hydrogeology.

(1) Design and interpret hydrologic testing programs.

(2) Utilize chemical data to evaluate hydrogeologic conditions.

(3) Apply geophysical methods to analyze hydrogeologic conditions.

(4) Determine physical and chemical properties of aquifers and vadose zones.

(5) Determine groundwater flow systems.

(6) Evaluate groundwater resources.

(7) Evaluate groundwater quality.

(8) Design wells and drilling programs.

(9) Develop groundwater resource management plans.

(10) Plan and evaluate remedial action programs.

e. Engineering geology.

(1) Provide geological information and interpretations for engineering design.

(2) Identify and evaluate potential seismic and other geologic hazards.

(3) Provide geologic consultation during and after construction.

(4) Develop and interpret engineering geology maps and sections.

(5) Evaluate materials resources.

(6) Define and establish site selection and evaluation criteria.

(7) Design and implement field and laboratory programs.

(8) Describe and sample soils for geologic analysis and materials properties testing.

f. Mining geology.

(1) Formulate exploration programs.

(2) Implement field investigations on prospects.

(3) Perform geologic interpretations for mineral reserves.

(4) Perform economic analyses/appraisals.

(5) Provide geologic interpretations for mine development and production activities.

(6) Provide geologic interpretations for mine abandonments, closures, or restorations.

g. Petroleum geology.

(1) Formulate exploration programs.

(2) Implement field investigations on prospects.

(3) Perform geologic interpretations of physical properties and hydrocarbon reserves.

(4) Perform petroleum economic analyses/appraisals.

(5) Provide geologic interpretations for development and production activities.

(6) Provide geologic interpretations for abandonments, closures, or restorations.

B. Each year of full-time undergraduate study in the geological sciences shall count as one-half year of experience up to a maximum of two years, and each year of full-time graduate study shall count as a year of experience up to a maximum of three years. Credit for undergraduate and graduate study shall in no case exceed a total of four years toward meeting the requirements for at least seven years of geological work. The board may consider in lieu of the above-described geological work, the cumulative total of geological work or geological research of persons occupying research or post-graduate positions as well as those teaching geology courses at the college or university level, provided such work or research can be demonstrated to be of a sufficiently responsible nature to be equivalent to the geological work required above.

C. A year of full-time employment is a minimum of 1,760 hours or 220 workdays in a 12-month period. More than 1,760 hours or 220 workdays during a 12-month period shall not be considered as more than one year of full-time experience. Partial credit may be given for actual hours of work or workdays experience if the applicant works as a geologist less than full time.

D. Each applicant shall successfully pass an appropriate examination approved by the board and designed to demonstrate that the applicant has the necessary knowledge and skill to exercise the responsibilities of the public practice of geology.

18 VAC 70-20-90. Certification by reciprocity Waiver of examination.

~~Any person certified, registered or licensed in another state, jurisdiction or territory of the United States may be granted a Virginia certificate without written examination, provided that:~~

~~1. The applicant meets all the requirements for certification in Virginia; and~~

~~2. The applicant holds a currently valid license in good standing in another jurisdiction based upon successful completion of a comparable exam.~~

The board may waive the examination requirement for any applicant who makes written application, otherwise meets the requirements of Chapter 14 (§ 54.1-1400 et seq.) of Title 54.1 of the Code of Virginia and also meets one of the following conditions:

1. Provides evidence of at least 12 years of geological work that includes the geological work as specified in 18 VAC 70-20-80; or

2. Provides evidence of an unexpired certificate of registration, certification or license to engage in the practice of geology issued on the basis of comparable requirements by a proper authority of a state, territory or possession of the United States or the District of Columbia.

18 VAC 70-20-105. Change of address or name.

Each certified professional geologist shall notify the board, in writing, of any change of address or name. This notification shall be sent to the board within 30 days after such change of address or name.

18 VAC 70-20-110. Compliance with other laws.

A certified professional geologist:

1. Shall comply with all federal, state, and local building, fire, safety, real estate, or mining codes, as well as any other laws, codes, ordinances, or regulations pertaining to the practice of geology.

2. Shall not violate any state or federal criminal statute involving, including fraud, misrepresentation, embezzlement, bribery, theft, forgery, or breach of fiduciary duty relating to his professional practice.

3. Shall immediately notify the client or employer and the appropriate regulatory agency if his professional judgment is overruled and not adhered to in circumstances of a serious threat to the public health, safety, or welfare. If appropriate remedial action is not taken within a reasonable amount of time after making the report, he shall notify the appropriate governmental authority of the specific nature of the public threat.

4. Shall give written notice to the board, and shall cooperate with the board and the department in furnishing any further information or assistance needed, if he knows or believes that another geologist/firm may be violating any of the provisions of Chapter 14 (§ 54.1-1400 et seq.) of Title 54.1 of the Code of Virginia, or this chapter.

18 VAC 70-20-140. Grounds for suspension, revocation, or denial to renew or grant certification.

A. The board may suspend, revoke, or refuse to renew the certification of any geologist who, after a *formal* hearing as provided for in the Administrative Process Act (§ ~~9-6-14:1~~ 2.2-4000 et seq. of the Code of Virginia), is found to have committed:

1. Fraud or deceit in obtaining or renewing certification (See § ~~54-1-20(5)~~ subdivision 5 of § 54.1-111 of the Code of Virginia); or

2. Any violation of Part III - Standards of Practice and Conduct, other regulations of the board, or governing statutes of the board; or

3. An act or acts of gross negligence, incompetence, or misconduct in the practice of geology as a certified professional geologist; or

4. Any conviction of a felony that in the opinion of the board would adversely affect the practice of geology.

~~B. A person shall not be refused a certificate based solely on the prior conviction of a crime unless that conviction directly relates to the geology profession.~~

18 VAC 70-20-150. Reissuance of certificate after revocation.

An individual whose certificate has been revoked in accordance with 18 VAC 70-20-140 ~~above~~ shall file a new application and obtain approval of the board to regain the certificate.

<p>NOTICE: The forms used in administering 18 VAC 70-20, Rules and Regulations of the Virginia Board for Geology, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.</p>

FORMS

~~Application for Certification as a Virginia Certified Professional Geologist Certification Application (rev. 6/00).~~

~~Applicant Check-Off Form.~~

~~Verification of Degree Granted and Course Work Completed.~~

~~Verification of Registration.~~

~~Experience Log [(eff. 5/02) (eff. 1/05)].~~

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Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-2406



Board for Geology
CERTIFICATION APPLICATION
 Fee \$40.00

A check or money order payable to the TREASURER OF VIRGINIA, or a completed credit card insert must be mailed with your application package. APPLICATION FEES ARE NOT REFUNDABLE.

1. Name _____
First Middle Last Generation (SR, JR, III)
2. Social Security Number * [] [] [] - [] [] - [] [] []
3. Date of Birth _____
4. Street Address (PO Box not accepted) _____
 City, State, Zip Code _____
5. E-mail Address _____
6. Telephone and Facsimile Numbers
() - Telephone () - Facsimile () - Beeper/Cellular
7. How are you applying for certification as a Professional Geologist?
 Examination
 Reciprocity
8. Have you passed a geology examination in any other jurisdiction?
 No
 Yes If yes, list the jurisdiction and the month/year the examination was administered.
9. Do you hold a current or expired Professional Geologist license, certification or registration from another state?
 No
 Yes If yes, complete the following table. You are also required to submit an original Certification of Licensure/Letter of Good Standing, dated within the last 60 days, from each state.

State	License, Certification or Registration Number	Expiration Date

Certifications must include: 1) the license/certification/registration number; 2) the initial date of licensure; 3) the expiration date of the license or renewal fees; 4) the means of obtaining licensure (i.e., exam, reciprocity, etc.) and the minimum requirements that were met to qualify for licensure; 5) all closed disciplinary actions resulting in violations or undetermined findings; and 6) an original authorized signature and board/department seal.

OFFICE USE ONLY	DATE	FEE	CLASS OF FEE	LICENSE NUMBER	ISSUE DATE
				2801	

10. Education (list in chronological order) *

Name of Institution	Beginning Month/Year	Ending Month/Year	Major	Graduate Hours Completed	Degree Received

* A certified/official transcript or other notarized document verifying the completion of the required courses and/or degrees must be submitted to the Board for Geology.

11. References - One of the three references must be a qualified or licensed/certified/registered geologist.

Name	Address	Telephone Number(s)	Certified?	Certificate Number/State
1.		() -	Y <input type="checkbox"/>	
2.		() -	N <input type="checkbox"/>	
3.		() -	Y <input type="checkbox"/>	
		() -	N <input type="checkbox"/>	

12. Have you ever been subject to a disciplinary action imposed by any (including Virginia) local, state or national regulatory body?

No

Yes If yes, list the name of the jurisdiction in which the disciplinary action took place and the license number. Provide an explanation of the events, including a description of the disciplinary proceeding and the type of sanctions that were imposed (i.e., suspension, revocation, voluntary surrender of license, monetary penalty, fine, reprimand, etc.). Attach copies of any correspondence or documentation (including a copy of the final order, decree or case decision) related to this matter. If necessary, you may attach a separate sheet of paper.

13. A. Have you ever been convicted in any jurisdiction of **any felony**? Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose violations that were adjudicated as a minor in the juvenile court system.

No Yes If yes, please provide the information requested in #13.C.

B. Have you ever been convicted in any jurisdiction of **any misdemeanor**? Any guilty plea or plea of nolo contendere must be disclosed on this application. Do not disclose violations that were adjudicated as a minor in the juvenile court system.

No Yes If yes, please provide the information requested in #13.C.

C. If you answered "yes" to either question #13.A. or #13.B., list the felony and/or misdemeanor conviction(s). Attach a copy of all applicable criminal conviction, state police and court records; information on the current status of incarceration, parole, probation, etc.; and any other information you wish to have considered with this application (i.e., reference letters, documentation of rehabilitation, etc.). If necessary, you may attach a separate sheet of paper.

14. I, the undersigned, certify that the foregoing statements and answers are true, and I have not suppressed any information that might affect the Board's decision to approve this application. I will notify the Department if I am subject to any disciplinary action or convicted of any felony or misdemeanor charges (in any jurisdiction) prior to receiving the requested certificate. I also certify that I understand, and have complied with, all the laws of Virginia related to geology certification under the provisions of Title 54.1, Chapter 14, of the Code of Virginia, and the Virginia Board for Geology Rules and Regulations.

Signature _____

Date _____

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

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Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 3600 West Broad Street
 Post Office Box 11066
 Richmond, Virginia 23230-1066
 (804) 367-2406
www.dpor.virginia.gov



**Board for Geology
 EXPERIENCE LOG**

Page _____ of _____

1. Name _____
 First Middle Last Generation
 (SR, JR, III)
2. Social Security Number * - -

Prior to entering information on this form, please make several photocopies of this blank form to ensure that you have additional forms to accommodate all your experience entries. Please be sure to number the pages according to the total number submitted (i.e., 1 of 3, 2 of 3, etc.) in the upper right-hand corner. Enter your most recent experience first.

Starting Month & Year	Ending Month & Year	Name & Signature of Supervisor/ Name & Address of Employer	Position Title Detailed Position Description
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Part-time? No <input type="checkbox"/> Yes <input type="checkbox"/> Position Description: _____
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Part-time? No <input type="checkbox"/> Yes <input type="checkbox"/> Position Description: _____
		Name _____ Signature _____ Employer's Name & Address _____	Title _____ Part-time? No <input type="checkbox"/> Yes <input type="checkbox"/> Position Description: _____

* State law requires every applicant for a license, certificate, registration or other authorization to engage in a business, trade, profession or occupation issued by the Commonwealth to provide a social security number or a control number issued by the Virginia Department of Motor Vehicles.

BOARD OF NURSING

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

Title of Regulation: 18 VAC 90-20. Regulations Governing the Practice of Nursing (amending 18 VAC 90-20-120).

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

Effective Date: July 26, 2006.

Agency Contact: Jay P. Douglas, Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail nursebd@dhp.virginia.gov.

Summary:

The amendment requires child abuse recognition and prevention education in the curriculum for all approved nursing education programs on and after July 1, 2007.

18 VAC 90-20-120. Curriculum.

A. Curriculum shall reflect the philosophy and objectives of the nursing education program and shall be consistent with the law governing the practice of nursing.

B. Nursing education programs preparing for practical nursing licensure shall include:

1. Principles and practice in nursing encompassing the attainment and maintenance of physical and mental health and the prevention of illness for individuals and groups throughout the life cycle;
2. Basic concepts of the nursing process;
3. Basic concepts of anatomy, physiology, chemistry and microbiology;
4. Basic concepts of communication, growth and development, interpersonal relations, patient education and cultural diversity;
5. Basic concepts of ethics and the vocational and legal aspects of nursing, including:
 - a. Regulations and sections of the Code of Virginia related to nursing;
 - b. Patient rights; and
 - c. Prevention of patient abuse, neglect and abandonment; and
6. Basic concepts of pharmacology, nutrition and diet therapy.

C. Nursing education programs preparing for registered nurse licensure shall include:

1. Theory and practice in nursing, encompassing the attainment and maintenance of physical and mental health and the prevention of illness throughout the life cycle for individuals, groups and communities;

2. Concepts of the nursing process;

3. Concepts of anatomy, physiology, chemistry, and microbiology;

4. Sociology, psychology, communications, growth and development, interpersonal relations, group dynamics, cultural diversity and humanities;

5. Concepts of pharmacology, nutrition and diet therapy, and pathophysiology;

6. Concepts of ethics, and the professional and legal aspects of nursing, including:

a. Regulations and sections of the Code of Virginia related to nursing;

b. Patient rights; and

c. Prevention of patient abuse, neglect and abandonment.

7. Concepts of leadership, delegation, management and patient education.

D. On and after July 1, 2007, all nursing education programs shall provide instruction in child abuse recognition and intervention.

VA.R. Doc. No. R06-246; Filed May 30, 2006, 3:33 p.m.

BOARD OF VETERINARY MEDICINE

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

Title of Regulation: 18 VAC 150-20. Regulations Governing the Practice of Veterinary Medicine (amending 18 VAC 150-20-100).

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

Effective Date: July 26, 2006.

Agency Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098 or e-mail elizabeth.carter@dhp.virginia.gov.

Summary:

The amendment increases the fee for a check that is not paid by a financial institution on which it is drawn because of insufficient funds in the account to \$35 to conform to § 2.2-614.1 of the Code of Virginia.

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18 VAC 150-20-100. Fees.

A. The following fees shall be in effect from October 15, 2005, to October 15, 2006:

Veterinary initial license	\$135
Veterinary license renewal (active)	\$100
Veterinary license renewal (inactive)	\$50
Veterinary reinstatement of expired license	\$175
Veterinary license late renewal	\$35
Veterinarian reinstatement after disciplinary action	\$300
Veterinary technician initial license or renewal	\$25
Veterinary technician license renewal (inactive)	\$15
Veterinary technician license late renewal	\$10
Veterinary technician reinstatement of expired license	\$50
Veterinary technician reinstatement after disciplinary action	\$75
Initial veterinary establishment permit registration	\$200
Veterinary establishment renewal	\$120
Veterinary establishment late renewal	\$40
Veterinary establishment reinstatement	\$100
Veterinary establishment reinspection	\$200
Veterinary establishment -- change of location	\$200
Veterinary establishment -- change of veterinarian-in-charge	\$30
Duplicate license	\$10
Duplicate wall certificate	\$25
Returned check	\$25 \$35
Licensure verification to another jurisdiction	\$15

B. The following fees shall be in effect on October 15, 2006, and thereafter:

Veterinary initial license or renewal (active)	\$135
Veterinary license renewal (inactive)	\$65
Veterinary reinstatement of expired license	\$175
Veterinary license late renewal	\$45
Veterinarian reinstatement after disciplinary action	\$300
Veterinary technician initial license or renewal	\$30
Veterinary technician license renewal (inactive)	\$15
Veterinary technician license late renewal	\$15
Veterinary technician reinstatement of expired license	\$50
Veterinary technician reinstatement after disciplinary action	\$75
Initial veterinary establishment permit registration	\$200
Veterinary establishment renewal	\$140
Veterinary establishment late renewal	\$45
Veterinary establishment reinstatement	\$100
Veterinary establishment reinspection	\$200

Veterinary establishment -- change of location	\$200
Veterinary establishment -- change of veterinarian-in-charge	\$30
Duplicate license	\$10
Duplicate wall certificate	\$25
Returned check	\$25 \$35
Licensure verification to another jurisdiction	\$15

VA.R. Doc. No. R06-247; Filed May 30, 2006, 3:32 p.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMONWEALTH TRANSPORTATION BOARD

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

Title of Regulation: **24 VAC 30-41. Rules and Regulations Governing Relocation Assistance (amending 24 VAC 30-41-220, 24 VAC 30-41-230, 24 VAC 30-41-290, 24 VAC 30-41-300, 24 VAC 30-41-310, 24 VAC 30-41-320, 24 VAC 30-41-430, 24 VAC 30-41-520, and 24 VAC 30-41-650.**

Statutory Authority: §§ 25.1-402 and 33.1-12 (5) of the Code of Virginia; 42 USC § 4601 et seq.; 49 CFR Part 24.

Effective Date: July 26, 2006.

Agency Contact: Beverly Fulwider, Relocation Program Manager, Right of Way and Utilities Division, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-4366, FAX (804) 786-1706 or e-mail beverly.fulwider@vdot.virginia.gov.

Summary:

Chapter 452 of the 2006 Acts of Assembly amended § 25.1-408 of the Code of Virginia. This statute deals with optional payments for those displaced from a place of business or farm operation under eminent domain, and provides that a displacee may choose to accept a payment authorized by the statute instead of the payment allowed by § 25.1-406. The amendment increased the upper limit of this optional payment from \$50,000 to \$75,000. The amendments to the regulation reflect this increase in the text of the regulation and also in the related guidance document. References to the updated guidance document are also made in the text of the regulation.

24 VAC 30-41-220. Moving expense schedule.

A. In lieu of a payment for actual costs, a displaced person or family who occupies the acquired dwelling may choose to be reimbursed for moving costs based on a moving expense schedule established by VDOT based on a room count. The schedule is revised periodically, based on a survey of movers, to reflect current costs. The schedule is used by all acquiring agencies throughout the state by agreement coordinated by the Federal Highway Administration.

The room count used will include occupied rooms within the dwelling unit plus personal property located in attics, unfinished basements, garages and outbuildings, or significant outdoor storage. Spaces included in the count must contain sufficient personal property as to constitute a room.

B. A person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons, or if the move is performed by VDOT at no cost to the person, shall be limited to \$50.

C. The cost to move a retained dwelling, any other structure, or any item determined to be real estate prior to the move, is not a reimbursable moving cost. However, if an owner-occupant retains the dwelling, including a mobile home, and chooses to use it as a means of moving personal belongings and furnishings, the owner-occupant may receive a moving cost payment based upon the moving expense schedule.

D. A discussion of residential move reimbursement options is contained in the "Guidance Document for Determination of Certain Financial Benefits to Displacees," effective November 21, 2001, revised February 11, 2005 July 1, 2006.

24 VAC 30-41-230. General.

A. The operator of a displaced business, farm or nonprofit organization is entitled to receive payment for the following categories of actual costs associated with moving:

1. Moving costs for relocating all personal property including machinery, equipment and fixtures and disconnect/reconnect costs;
2. Search costs for a replacement location not to exceed \$2,500; and
3. Reestablishment expenses not to exceed \$25,000.

All moving expenses will be actual and reasonable. To assure this, the district office will monitor the process of conducting inventories, developing move specifications, securing commercial moving bids and estimates and observing the conduct of the move. Emphasis will be directed toward moves that are of a complicated nature or involve a substantial expenditure.

B. As an alternative to the actual cost reimbursement as explained above, the displaced business, farm or nonprofit organization that meets certain criteria may choose to receive a fixed payment in lieu of actual moving expenses not less than \$1,000 or more than ~~\$50,000~~ \$75,000. The specific amount is based on the net income of the displaced business, farm or nonprofit organization.

The reimbursable actual moving expenses and the fixed payment in lieu of moving expenses are explained in detail in the remainder of this part.

C. The displaced business, farm, or nonprofit organization is required to file a written application, Form RW-60B with VDOT and obtain approval prior to the date on which the move is to be accomplished. After the move has been completed, the displacee must complete and submit a relocation certification claim, Form RW-67B, within 18 months after the later of the following dates:

1. The date the displacee moves from the real property, or moves personal property from real property; or
2. The date of acquisition.

24 VAC 30-41-290. Actual direct losses of tangible personal property.

A. Actual, direct losses of tangible personal property are allowed when a person who is displaced from a business, farm or nonprofit organization is entitled to relocate such property but elects not to do so. This may occur if an item of equipment is bulky and expensive to move, but is obsolete and the owner desires to replace it with a new item that performs the same function. Payments for actual, direct losses can be made only after an effort has been made by the owner to sell the item involved. When the item is sold, payment will be determined in accordance with subsection B or C of this section. If the item cannot be sold, the owner will be compensated in accordance with subsection D of this section. The sales prices and the cost of advertising and conducting the sale, must be supported by copies of bills, receipts, advertisements, offers to sell, auction records and other data supporting the bona fide nature of the sale.

B. If an item of personal property which is used in connection with the business is not moved but is replaced with a comparable item at the new location, the payment will be the lesser of:

1. The replacement cost minus the net proceeds of the sale. Trade-in value may be substituted for net proceeds of sale where applicable; or
2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles.

C. If the item is not to be replaced in the reestablished business, the payment will be the lesser of:

1. The difference between the market value of the item in place for continued use at its location prior to displacement less its net proceeds of the sale; or
2. The estimated cost of moving the item to the replacement site but not to exceed 50 miles. (See "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective November 21, 2001, revised February 11, 2005 July 1, 2006, for example.)

D. If a sale is not effected under subsection B or C of this section because no offer is received for the property and the property is abandoned, payment for the actual direct loss of that item may not be more than the fair market value of the item for continued use at its location prior to displacement or

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the estimated cost of moving the item 50 miles, whichever is less, plus the cost of the attempted sale, irrespective of the cost to VDOT of removing the item.

E. The owner will not be entitled to moving expenses or losses for the items involved if the property is abandoned with no effort being made to dispose of it by sale, or by removal at no cost. The district manager may allow exceptions to this requirement for good cause.

F. The cost of removal of personal property by VDOT will not be considered as an offsetting charge against other payments to the displaced person.

24 VAC 30-41-300. Searching expenses.

A. A displaced business, farm operation, or nonprofit organization is entitled to reimbursement for actual expenses, not to exceed \$2,500, as VDOT determines to be reasonable, which are incurred in searching for a replacement location, and includes expenses for:

1. Transportation. A mileage rate determined by VDOT will apply to the use of an automobile;
2. Meals and lodging away from home;
3. Time spent searching, based on reasonable salary or earnings;
4. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such site;
5. Time spent in obtaining permits and attending zoning hearings; and
6. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

B. Documentation for a move search claim will include expense receipts and logs of times, dates and locations related to the search. (See "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective November 21, 2001, revised February 11, 2005, July 1, 2006, for example).

24 VAC 30-41-310. Reestablishment expenses.

A. A small business, farm or nonprofit organization may be eligible to receive a payment, not to exceed \$25,000, for expenses actually incurred in reestablishing operations at a replacement site. A small business, farm or nonprofit organization that elects a fixed payment in lieu of actual moving expenses is not eligible for a reestablishment expense payment.

B. Eligible expenses. Reestablishment expenses must be reasonable and actually incurred. They may include the following items:

1. Repairs or improvements to the replacement real property as required by federal, state or local law, code or ordinance;
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business;

3. Construction and installation costs for exterior signing to advertise the business;

4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting;

5. Licenses, fees and permits when not paid as part of moving expenses;

6. Advertisement of replacement location;

7. Increased costs of operation during the first two years at the replacement site for such items as:

- a. Lease or rental charges;
- b. Personal or real property taxes;
- c. Insurance premiums; and
- d. Utility charges, excluding impact fees.

8. Other items that VDOT considers essential to the reestablishment of the business.

A discussion of business reestablishment costs is contained in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees," effective November 21, 2001, revised February 11, 2005, July 1, 2006.

C. Ineligible expenses. The following is a nonexclusive listing of ineligible reestablishment expenditures.

1. Purchase of capital assets, such as office furniture, filing cabinets, machinery or trade fixtures;
2. Purchase of manufacturing materials, production supplies, product inventory or other items used in the normal course of the business operation;
3. Interest on money borrowed to make the move or purchase the replacement property; and
4. Payment to a part-time business in the home which does not contribute materially to the household income.

24 VAC 30-41-320. Fixed payment in lieu of actual costs.

A. A displaced business, farm or nonprofit organization, meeting eligibility criteria may receive a fixed payment in lieu of a payment for actual moving and related expenses. The amount of this payment is equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than ~~\$50,000~~ \$75,000.

B. Criteria for eligibility. For an owner of a displaced business to be entitled to a payment in lieu of actual moving expenses, the district office must determine that:

1. The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and, it vacates or relocates from its displacement site.
2. The displaced business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless

VDOT determines, for a stated reason, that it will not suffer a substantial loss of its existing patronage.

3. The business is not part of a commercial enterprise having more than three other entities which are not being acquired by VDOT and which are under the same ownership and engaged in the same or similar business activities. (For purposes of this rule, any remaining business facility that did not contribute materially to the income of the displaced person during the two taxable years prior to displacement shall not be considered "other entity.")

4. The business is not operated at displacement dwelling or site solely for the purpose of renting such dwelling or site to others.

5. The business contributed materially to the income of the displaced person during the two taxable years prior to displacement. However, VDOT may waive this test for good cause. A part-time individual or family occupation in the home that does not contribute materially to the displaced owner is not eligible.

C. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;
2. Substantially identical or interrelated business functions are carried out and business and financial affairs are co-mingled;
3. The entities are held out to the public and to those customarily dealing with them, as one business; and
4. The same person, or closely related persons own, control, or manage the affairs of the entities.

The district office will make a decision after consideration of all the above items and so advise the displacee.

D. A displaced farm operation may choose a fixed payment in lieu of the payments for actual moving and related expenses in an amount equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than ~~\$50,000~~ \$75,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if VDOT determines that:

1. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or
2. The partial acquisition caused a substantial change in the nature of the farm operation.

A displaced nonprofit organization may choose a fixed payment of \$1,000 to ~~\$50,000~~ \$75,000 in lieu of the payments for actual moving and related expenses if VDOT determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless VDOT demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-

month periods prior to the acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses.

Gross revenues for a nonprofit organization include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are for administrative support, such as rent, utilities, salaries, advertising and other like items, as well as fund raising expenses. Operating expenses are not included in administrative expenses.

E. Payment determination. The term "average annual net earnings" means one-half of all net earnings of the business or farm before federal, state and local income taxes, during the two tax years immediately preceding the tax year in which the business or farm is relocated. If the two years immediately preceding displacement are not representative, VDOT may use a period that would be more representative. For instance, proposed construction may have caused recent outflow of business customers, resulting in a decline in net income for the business.

The term "average annual net earnings" include any compensation paid by the business to the owner, spouse, or dependents during the two-year period. In the case of a corporate owner of a business, earnings shall include any compensation paid to the spouse or dependents of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, his wife and their children shall be treated as one unit.

If the business, farm or nonprofit organization was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate.

F. Information to be provided by owner. For the owner of a business, farm or nonprofit organization to be entitled to this payment, the owner must provide information to support the net earnings of the business, farm or nonprofit organization. State or federal tax returns for the tax years in question are the best source of this information. However, certified financial statements can be accepted as evidence of earnings. The tax returns furnished must either be signed and dated or accompanied by a certification from the business owner that the returns being furnished reflect the actual income of the business as reported to the Internal Revenue Service or the State Department of Taxation for the periods in question. The owner's statement alone would not be sufficient if the amount claimed exceeded the minimum payment of \$1,000.

A more complete discussion of this benefit is contained in the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective November 21, 2001, revised ~~February 14, 2005~~ July 1, 2006.

24 VAC 30-41-430. Purchase supplement payment computation.

A. Method.

1. The probable selling price of a comparable dwelling will be determined by the district office by analyzing at least

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three dwellings from the inventory of available housing, Library Form RW-69B, which are available on the private market and which meet the criteria of a comparable replacement dwelling. Less than three comparables may be used for this determination when fewer comparable dwellings are available. The relocation agent performing the determination must provide a full explanation supporting the determination, including a discussion of efforts to locate more than one comparable. One comparable, from among those evaluated and considered, will be selected as the basis for the purchase supplement determination. The selection will be made by careful consideration of all factors in the dwellings being considered which affect the needs of the displacee with reference to the elements in the definition of comparable replacement housing.

Refer to the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective November 21, 2001, revised ~~February 11, 2005~~ July 1, 2006, for a step-by-step summary of the determination process, and an example of the purchase supplement payment computation.

2. If comparable decent, safe and sanitary housing cannot be located, after a diligent search of the market, available non-decent, safe and sanitary replacement dwellings may be used as the basis for the maximum amount of the purchase supplement. In these cases, the maximum payment will be established by obtaining cost estimates from persons qualified to correct the decent, safe and sanitary deficiencies and adding this amount to the probable selling price of the available replacement housing.

A displacee will not be required to vacate the displacement dwelling until decent, safe and sanitary housing has been made available.

B. Major exterior attributes. When the dwelling selected in computing the payment is similar, except it lacks major exterior attributes present at the displacement property such as a garage, outbuilding, swimming pool, etc., the appraised value of such items will be deducted from the acquisition cost of the acquired dwelling for purposes of computing the payment. No exterior attributes are to be added to the comparable. However, the added cost of actually building an exterior attribute at the replacement property occupied, may be added to the acquisition cost provided major exterior attributes having the same function are found in the displacement property and in the comparable used to determine the maximum payment.

The following calculation shows how a purchase supplement is determined when a major exterior attribute is present:

Example

Major Exterior Attribute (swimming pool)

The appraiser assigned \$5,000 contributing value for the pool, and a total property value of \$100,000. A comparable house, not having a pool, is listed for sale at \$105,000. After a 3% adjustment, a probable selling price of \$101,850 is determined for the comparable property. The purchase supplement amount is computed below:

Comparable Dwelling (adjusted)	\$101,850
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Less:

Displacement property value	\$100,000
Less value of the pool	\$5,000
Adjusted displacement property value	\$95,000
Purchase Supplement Amount	\$6,850

C. Comparable housing not available.

1. In the absence of available comparable housing upon which to compute the maximum replacement housing payment, the district office may establish the estimated selling price of a new comparable decent, safe and sanitary dwelling on a typical home site. To accomplish this, the district office will contact at least two reputable home builders for the purpose of obtaining firm commitments for the cost of building a comparable dwelling on a typical home site.

2. If the only housing available greatly exceeds comparable standards, a payment determination may be based on estimated construction cost of a new dwelling which meets, but does not exceed, comparable standards.

24 VAC 30-41-520. General.

A. A residential tenant who was in occupancy at the displacement dwelling for 90 days or more before the initiation of negotiations for the property is eligible to receive a rent supplement to provide for relocation to comparable replacement housing. An owner-displacee who was in occupancy from 90--179 days before the initiation of negotiations is eligible for the same benefits as the tenant-displacee of 90+ days.

B. A displaced owner or tenant eligible under this category can receive a replacement housing payment not to exceed \$5,250 to rent a decent, safe and sanitary replacement dwelling. A tenant may be eligible for a down payment supplement up to \$5,250. The monetary limit of \$5,250 for a rental replacement housing payment, or a down payment supplement, does not apply if provisions of Last Resort Housing are applicable (see Part XI (24 VAC 30-41-650 et seq.)).

C. A discussion of rent supplement determination is found in the "Guidance Document for the Determination of Certain Financial Benefits to Displacees," effective November 21, 2001, revised ~~February 11, 2005~~ July 1, 2006.

24 VAC 30-41-650. General.

A. No displaced persons will be required to move until a comparable replacement dwelling is made available within their financial means. Comparable replacement housing may not be available on the private market or does not meet specific requirements or special needs of a particular displaced family. Also, housing may be available on the market, but the cost exceeds the benefit limits for tenants and owners of \$5,250 and \$22,500, respectively. If housing is not available to a displacee and the transportation project would thereby be prevented from proceeding in a timely manner, VDOT is authorized to take a broad range of measures to make housing available. These measures, which are outside

normal relocation benefit limits, are called collectively last resort housing.

B. It is the responsibility of VDOT to provide a replacement dwelling, which enables the displacee to relocate to the same ownership or tenancy status as prior to displacement. The displacee may voluntarily relocate to a different status. The district office may also provide a dwelling, which changes a status of the displacee with their concurrence, if a comparable replacement dwelling of the same status is not available.

A more complete discussion of last resort housing appears in the "Guidance Document for Determination of Certain Financial Benefits for Displacees," effective November 21, 2001, revised ~~February 11, 2005~~ July 1, 2006.

NOTICE: The forms used in administering 24 VAC 30-41, Rules and Regulations Governing Relocation Assistance, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Virginia Department of Transportation, 1401 East Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

RW-59(1) (Form letter for moving families w/certification of citizenship/legal residence) (rev. 11/98).

RW-59(2) (Form letter for moving personal property w/certification of citizenship/legal residence) (rev. 8/99).

RW-59(3) (Form letter for moving businesses, farms, and nonprofit organizations w/certification of citizenship/legal residence) (rev. ~~8/00~~ 7/06).

Occupancy Agreement (no form number) (rev. 8/99).

RW-60A, Moving Cost Application (Families and Individual/Personal Property only) (rev. 10/00).

RW-60B, Moving Cost Application (Businesses, Farms, and Nonprofit Organizations) (rev. 8/00).

RW-62C, Occupancy Affidavit (Tenants) (rev. ~~8/99~~ 7/06).

RW-65A(1), Application for Purchase Replacement Housing Payment (Owner-occupant for 180 days or more) (rev. 4/01).

RW-65B(1), Application for Purchase Replacement Housing Payment (Owner-occupant for less than 180 days but not less than 90 days/Tenant-occupant of not less than 90 days) (rev. 4/01).

RW-65C(1), Application for Rental Replacement Housing Payment (rev. 11/98).

RW-67A, Moving Cost Payment Claim (Families and Individuals/Personal Property only) (rev. 11/98).

RW-67B, Moving Cost Payment Claim (Businesses, Farms, and Nonprofit Organizations) (rev. 8/99).

VA.R. Doc. No. R06-265; Filed June 7, 2006, 10:45 a.m.



FAST-TRACK REGULATIONS

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

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Titles of Regulations: **8 VAC 20-520. Regulations Governing Reduction of State Aid When Length of School Term Below 180 School Days (repealing 8 VAC 20-520-10).**

8 VAC 20-521. Regulations Governing Reduction of State Aid When Length of School Term Below 180 Teaching Days or 990 Teaching Hours (adding 8 VAC 20-521-10 through 8 VAC 20-521-60).

Statutory Authority: § 22.1-98 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until August 25, 2006.
(See Calendar of Events section for additional information)

Effective Date: September 15, 2006.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, Post Office Box 2120, 101 N. 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or e-mail margaret.roberts@doe.virginia.gov.

Basis: Section 22.1-16 of the Code of Virginia vests the Board of Education with the authority to promulgate such regulations as may be necessary to carry out its powers and duties and the provisions of Title 22.1 of the Code of Virginia. Section 22.1-98 of the Code of Virginia prescribes the circumstances under which state aid shall be reduced when the length of the school term falls below 180 days or 990 hours. This code section, as amended by the 2004 General Assembly, requires the Board of Education to promulgate regulations within 280 days of its enactment. Emergency regulations were effective on February 25, 2005, and expired on February 25, 2006.

Purpose: The purpose of this regulation is to clarify the schedule of makeup days and circumstances in which a waiver may be granted by the Board of Education so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. The actions also implement the legislation that permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency.

Substance: The regulation incorporates the changes required by the amendments to the Code of Virginia and clarifies certain other requirements. The changes include definitions of "severe weather conditions or other emergency situations" and "declared state of emergency." The regulation also includes authorization for school divisions to make up missed teaching days by providing equivalent teaching hours, specific requirements for the number of teaching days or teaching hours that must be made up based on the number of days a

school has been closed, and a provision for the Board of Education to waive the requirement that school divisions provide additional teaching days or hours to compensate for school closings resulting from a declared state of emergency. Further, the proposed regulation authorizes the Superintendent of Public Instruction to approve reductions in the school term without a proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund.

Issues: The emergency regulations expired on February 25, 2006, therefore, permanent regulations must be promulgated. The advantage to all of the parties is that a permanent regulation will be in effect that will comport with the Code of Virginia in addressing the reduction of state aid when the length of the school term is below 180 teaching days or 990 teaching hours due to school closings as a result of severe weather conditions or other emergency situations.

Rationale for Using Fast-Track Process: The fast track process is applicable because the promulgation of this regulation is noncontroversial in that the text comports with the code requirements already in effect and being implemented in school divisions in Virginia. The regulation mirrors the emergency regulation that was approved by the board at its January 12, 2005, meeting and was in effect until its expiration in February 2006.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Education (board) proposes to amend these regulations to reflect § 22.1-98 of the Code of Virginia. Significant changes include (i) permitting school divisions to make up missed days by extending the length of the teaching day and (ii) amending language concerning under which circumstances school divisions may apply to waive the 180-day school term requirement.

Estimated economic impact. The current regulations explicitly prohibit schools from making up the first 15 teaching days lost by extending the length of the school day. Pursuant to Senate Bill 452 and House Bill 1256 of the 2004 Virginia Acts of the Assembly, the board proposes to specify that schools may make up all missed days by extending the length of the teaching day, as well as by adding teaching days to the school calendar. Articles in the Harvard Graduate School of Education's Ed. Magazine and the Washington Post cite anecdotal evidence that students benefit significantly from longer school days.¹ But no known research focuses on a comparison of student learning in extending teaching days versus additional teaching days. Although this issue is not its central focus, Kenny (1982) does produce some empirical evidence on the returns to student learning from extending the length of the teaching day versus adding teaching days to the school calendar. Kenny's regression results indicate that for

¹ Sources: Tuttle (2005) and Mathews (2005).

all tested categories other than science, including verbal, mathematics, reading comprehension and social science, average student test performance improves substantially less with extended teaching days than with additional teaching days. This is consistent with the idea that students may be tired late in the day and less able to focus and learn. Thus based on this study, it appears that for most subjects students learn more when teaching days are added rather than extended.

Some school districts will of course welcome the additional option to make up missed days by extending the length of the teaching day. Staff commitments and facility availability may at times make it very difficult to add school days. School districts may not be able to provide 990 teaching hours without the option to extend the length of the school day. While student learning appears to be greater with additional teaching days than with extended teaching days, student learning does appear to increase with extended teaching days.² Thus, if school districts cannot add additional teaching days, extending the teaching day will be more beneficial than doing neither.

The current regulations specify that school divisions that are forced to close more than 15 days during the school term because of severe weather, energy shortages, or power failure may apply to the board for a waiver of the 180-day requirement. The school division must present evidence that every reasonable effort has been made to reschedule as many days as possible. Before approving a waiver, the state board must be satisfied that the lost time cannot be made up.

The board proposes to replace this language with new language specifying that it may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for closings resulting from a declared state of emergency. The current language listing severe weather, energy shortages, or power failure as allowable causes for school closing and waiver application is eliminated. In practice, there will likely be some occasions where severe weather, energy shortage, or power failure occurs and schools are closed, but a state of emergency is not declared. Thus, the proposed change in language may result in fewer waivers applied for and granted. If the affected school districts truly cannot or otherwise choose to not add teaching days or extend teaching hours to compensate for the closings, then the affected districts will lose funding pursuant to these regulations. If the affected districts can actually make up the teaching time through perhaps some additional expenditure, this proposed change in waiver eligibility may result in some schools adding teaching time who would have obtained a waiver and not added the teaching time under the current regulations. To the extent that this occurs, this proposed amendment may result in some additional student learning.

Businesses and entities affected. The proposed amendments affect the 132 school divisions in the Commonwealth.

Localities particularly affected. The proposed amendments affect all Virginia localities. Those localities particularly prone to severe weather conditions are particularly affected.

Projected impact on employment. The proposed amendments do not significantly affect employment.

Effects on the use and value of private property. The proposed amendments do not significantly affect the use and value of private property.

Small businesses: costs and other effects. The proposed amendments do not significantly affect small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed amendments do not significantly affect small businesses.

References

Kenny L W, "Economies of Scale in Schooling," *Economics of Education Review*, Vol. 2, no. 1, Winter 1982.

Mathews J, "Let's Have a Nine-Hour School Day," *The Washington Post*, August 16, 2005.

Tuttle K, "What's Wrong with a Six-Hour School Day?" *Ed. Magazine*, Harvard Graduate School of Education, Summer 2005.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency agrees with the economic impact analysis done by DPB October 14, 2005. The agency will continue to examine the economic and administrative impact of the regulations as they progress through the Administrative Process Act process.

Summary:

The proposed regulation clarifies the schedule of makeup days and circumstances in which a waiver may be granted by the Board of Education so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. The proposed actions also implement the legislation that permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency.

CHAPTER 521.

REGULATIONS GOVERNING REDUCTION OF STATE AID WHEN LENGTH OF SCHOOL TERM BELOW 180 TEACHING DAYS OR 990 TEACHING HOURS.

8 VAC 20-521-10. Definitions.

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

"Declared state of emergency" means the declaration of an emergency before or after an event by the Governor or by officials in a locality that requires the closure of any or all schools within a school division.

"Instructional time" means the period that students are in school on a daily or annual basis as defined in the

² Kenny (1982) indicates that additional minutes in the school day do add to student cognition. This supports the anecdotal evidence from Tuttle (2005) and Mathews (2005).

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Regulations Establishing Standards for Accrediting Public Schools in Virginia, 8 VAC 20-131.

"Severe weather conditions or other emergency situations" means those circumstances presenting a threat to the health or safety of students that result from severe weather conditions or other emergencies, including, but not limited to, natural and man-made disasters, energy shortages or power failures.

"Teaching days" means days when instruction is provided.

"Teaching hours" means hours when instruction is provided.

8 VAC 20-521-20. Length of school term.

A. The length of every school's term in every school division shall be a minimum of 180 teaching days or 990 teaching hours in any school year.

B. Nothing in these regulations shall prohibit a school division from exceeding the 180 teaching day or 990 teaching hour requirement in any of its schools.

8 VAC 20-521-30. Completion of teaching hours.

A. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for fewer than five days, the school or schools shall make up all missed days by adding teaching days to the school calendar or extending the length of the teaching day.

B. When severe weather conditions or other emergency situations have resulted in the closing of a school or schools in a school division for five or more days, the school or schools shall make up the missed days in accordance with § 22.1-98 of the Code of Virginia by adding teaching days to the school calendar or extending the length of the teaching day.

C. Nothing in these regulations shall preclude a school division from making up missed teaching days by providing students with teaching hours equivalent to such missed teaching days.

8 VAC 20-521-40. Waivers for a declared state of emergency.

A. The Board of Education may waive the requirement that school divisions provide additional teaching days or teaching hours to compensate for closings resulting from a declared state of emergency.

B. If the local school board desires a waiver for days missed as the result of a declared state of emergency, it shall submit a request for a waiver to the Board of Education. The request shall include evidence of efforts that have been made by the school division to reschedule as many days as possible.

C. The division superintendent and the chair of the local school board shall certify that every reasonable effort for making up lost teaching days or teaching hours was exhausted before requesting a waiver of the requirement.

D. The Board of Education authorizes the Superintendent of Public Instruction to approve, in compliance with these regulations, reductions in the school term for a school or the schools in a school division.

E. If the waiver is denied, the school division shall make up the missed instructional time in accordance with 8 VAC 20-521-30 and § 22.1-98 of the Code of Virginia.

8 VAC 20-521-50. Funding.

A. There shall be no proportionate reduction in the amount paid by the Commonwealth from the Basic School Aid Fund if a local school division:

1. Completes instructional time in accordance with 8 VAC 20-521-30 and § 22.1-98 of the Code of Virginia; or

2. Obtains a waiver for closings resulting from a declared state of emergency in accordance with 8 VAC 20-521-40.

B. The local appropriations for educational purposes necessary to fund 180 teaching days or 990 teaching hours shall not be proportionally reduced by any local governing body due to a reduction in the length of the term of any school if the missed days are made up in accordance with 8 VAC 20-521-30 or the schools in a school division have been granted a waiver in accordance with 8 VAC 20-521-40.

8 VAC 20-521-60. Administration.

A. The Virginia Department of Education shall annually notify local school divisions of the provisions of these regulations and the Code of Virginia regarding reductions in the length of the school term.

B. Local school division superintendents shall certify by April 15 of each school year that they have read and complied with these provisions and are implementing a plan for making up any missed time that has not been waived in accordance with these regulations.

VA.R. Doc. No. R06-250; Filed May 31, 2006, 11:02 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Title of Regulation: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy (amending 18 VAC 110-20-275 and 18 VAC 110-20-710).**

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until August 25, 2006.

(See Calendar of Events section for additional information)

Effective Date: September 10, 2006.

Agency Contact: Elizabeth Scott Russell, RPh, Executive Director, Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9911, FAX (804) 662-9313, or e-mail elizabeth.russell@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia provides the Board of Pharmacy the authority to promulgate regulations to administer the regulatory system. The specific authority for the board to establish requirements for the security and integrity of prescription drugs is found in § 54.1-3307 of the Code of Virginia.

Purpose: The proposed regulatory action is necessary to eliminate a costly requirement for certain entities that would otherwise be required to have their facilities fully alarmed in accordance with regulations for drug security. Since the board does not require licensed pharmacies to maintain prescriptions awaiting delivery in an alarmed area, the requirement for alternate delivery sites to be alarmed, such as community services boards, seemed unnecessary. These sites are not maintaining a stock of drugs to be dispensed; they are serving as delivery sites for prescriptions that have already been dispensed to a patient. To enforce the current alarm requirement for community services boards, other alternate delivery sites and humane societies could jeopardize their ability to provide certain services and could be detrimental to the health and safety of the public. With the proposed rule, the drugs will be secured in a locked room or cabinet and only accessible to the responsible party at the facility or his designee.

Substance: The proposed amendment will eliminate the requirement for alternate delivery sites and humane societies to have alarm systems provided certain conditions for safety and security are met.

Issues: The advantage to the public that is served by alternate delivery sites or humane societies is the availability of those services without the additional costs of installing and maintaining an alarm system. There are no disadvantages to the public; the prescriptions are limited in quantity, awaiting pick-up by a client or a patient, typically Schedule VI drugs without any significant risk for diversion or theft.

The primary advantage to the Commonwealth is the elimination of a requirement that, if enforced, could significantly add to the cost of community services boards and other alternate delivery sites, such as student health centers in colleges and universities. There are no disadvantages.

Rationale for Using Fast-Track Process: The elimination of the alarm requirement for alternate delivery sites and humane societies will benefit all such entities and avoid expenditures that could jeopardize their services. The board is satisfied that the requirement to maintain prescriptions awaiting delivery at such sites in a locked area or cabinet with limited access is sufficient to protect the safety and security of the drugs. Therefore, everyone who has worked on a solution to this dilemma has agreed to the proposed regulation, which needs to be promulgated on a fast-track to eliminate a very burdensome rule.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the proposed regulation. The Board of Pharmacy (board) proposes to amend the Board of Pharmacy regulations to exempt certain controlled substances registrants from having to store filled prescriptions in alarmed spaces. Specifically, the board proposes to add humane

societies and alternate delivery sites to the list of other registrants, researchers and animal control officers, who are allowed to store small amounts of Schedule II-V drugs in unalarmed buildings so long as other security protocols are followed.

Result of analysis. The benefits likely exceed the costs for this proposed regulatory change.

Estimated economic impact. Current Board of Pharmacy regulations require that controlled substances registrants whose facilities are not staffed 24 hours a day store prescription drugs "... in a fixed and secured room, cabinet or area which has a security device for the detection of breaking." The only controlled substances registrants who are currently exempt from this alarm requirement are researchers and animal control officers. The board proposes to extend this exemption to cover humane societies, which store small quantities of drugs for animals, and alternate delivery sites such as campus health centers and after-care pharmacies at local community services boards, where prescriptions that are filled at offsite pharmacies may be held for patient pick-up.

Humane societies have traditionally been allowed to store drugs in their unalarmed facilities but were inadvertently left off of the list of registrants who are exempted from code alarm requirements when this regulation was written. The proposed regulatory change adds them to this list so that they may continue to operate without having to install expensive alarm systems. This change will benefit Virginia's citizens as it will allow humane societies to use their funds to take care of unwanted animals that might otherwise constitute a public nuisance.

The board also seeks to extend the exemption from alarm requirements to alternate delivery sites that receive filled prescriptions and hold them for patient pick-up. This exemption would allow student health centers to receive students' prescriptions and hold them in unalarmed buildings so long as these prescriptions are kept in a locked room or cabinet where only authorized personnel can access them. Although this exemption covers storage of Schedule II-V drugs, one would expect most prescriptions held for students would be things like antibiotics and birth control pills that are Schedule V drugs, nonaddictive and unlikely to be abused. Universities and colleges will certainly benefit from being allowed to have their student health centers in unalarmed buildings. This not only saves the price of an alarm system, but also allows greater flexibility to relocate these centers as necessary or convenient. Since most held prescriptions are likely to have a low risk of abuse, there is likely to be little risk of increased theft of prescriptions from unalarmed student health centers.

The alarm exemption for alternate delivery sites will allow local community services boards (CSB) to serve as after-care pharmacies for clients of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS). Like student health centers, CSBs will benefit from the proposed regulation in that they will not have to pay for alarm systems and will have greater flexibility to move their facilities as they see fit. Given the population that DMHMRSAS serves, however, CSBs will likely receive more filled prescriptions of Schedule II-IV drugs that are more

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addictive and more likely to be abused. Because of this and because part of DMHMRSAS's, and the CSBs', target clientele is comprised of substance abusers, CSBs are likely more at risk for increasing drug theft than are student health centers. As drugs will be held in a locked and secure room or cabinet, the risk of theft, though increased, will still be minimal. In any case, the benefits to both the community services boards and their clients, who will be able to choose when and where to pick up their prescriptions, likely outweigh the costs that may arise from drug theft.

Businesses and entities affected. This proposed regulatory change will affect the 44 humane societies that are located in the Commonwealth as well as all alternate delivery sites such as student health centers and community services boards.

Localities particularly affected. The proposed regulation will affect all localities in the Commonwealth.

Projected impact on employment. The proposed regulation is unlikely to affect employment.

Effects on the use and value of private property. The proposed regulation will allow affected entities greater flexibility in how they use their property and will increase the value of that property by an amount equal to the cost of the now unnecessary alarm system.

Small businesses: costs and other effects. To the extent that affected entities are small colleges that are for-profit and have student health centers, the proposed regulation will lower costs for affected small businesses.

Small businesses: alternative method that minimizes adverse impact. The proposed regulation will decrease the compliance burden on the regulated community.

Legal mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007 H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has an adverse effect on small businesses, § 2.2-4007 H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board of Pharmacy concurs with the analysis of the Department of Planning and Budget (DPB) for amendments to 18 VAC 110-20, related to elimination of certain alternate delivery sites to have an alarm system.

Summary:

The proposed amendments eliminate the requirement for an alarm system for alternate sites for delivery of dispensed prescriptions provided the prescriptions are held in a locked room or device with access limited to the practitioner or responsible party listed on an application for a controlled substance registration or his designee.

18 VAC 110-20-275. Delivery of dispensed prescriptions.

A. Pursuant to § 54.1-3420.2 B of the Code of Virginia, in addition to direct hand delivery to a patient or patient's agent or delivery to a patient's residence, a pharmacy may deliver prescriptions to another pharmacy, to a practitioner of the healing arts licensed to practice pharmacy or to sell controlled substances, or to an authorized person or entity holding a controlled substances registration issued for this purpose in compliance with this section and any other applicable state or federal law.

B. Delivery to another pharmacy.

1. One pharmacy may fill prescriptions and deliver the prescriptions to a second pharmacy for patient pickup or direct delivery to the patient provided the two pharmacies have the same owner, or have a written contract or agreement specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which each pharmacy will comply with all applicable federal and state law.

2. Each pharmacy using such a drug delivery system shall maintain and comply with all procedures in a current policy and procedure manual that includes the following information:

- a. A description of how each pharmacy will comply with all applicable federal and state law;
- b. The procedure for maintaining required, retrievable dispensing records to include which pharmacy maintains the hard-copy prescription, which pharmacy maintains the active prescription record for refilling purposes, how each pharmacy will access prescription information necessary to carry out its assigned responsibilities, method of recordkeeping for identifying the pharmacist or pharmacists responsible for dispensing the prescription and counseling the patient, and how and where this information can be accessed upon request by the board;
- c. The procedure for tracking the prescription during each stage of the filling, dispensing, and delivery process;
- d. The procedure for identifying on the prescription label all pharmacies involved in filling and dispensing the prescription;

e. The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information;

f. The policy and procedure for ensuring accuracy and accountability in the delivery process;

g. The procedure and recordkeeping for returning to the initiating pharmacy any prescriptions that are not delivered to the patient; and

h. The procedure for informing the patient and obtaining consent if required by law for using such a dispensing and delivery process.

3. Drugs waiting to be picked up at or delivered from the second pharmacy shall be stored in accordance with subsection A of 18 VAC 110-20-200.

C. Delivery to a practitioner of the healing arts licensed by the board to practice pharmacy or to sell controlled substances or other authorized person or entity holding a controlled substances registration authorized for this purpose.

1. A prescription may be delivered by a pharmacy to the office of such a practitioner or other authorized person provided there is a written contract or agreement between the two parties describing the procedures for such a delivery system and the responsibilities of each party.

2. Each pharmacy using this delivery system shall maintain a policy and procedure manual that includes the following information:

a. Procedure for tracking and assuring security, accountability, integrity, and accuracy of delivery for the dispensed prescription from the time it leaves the pharmacy until it is handed to the patient or agent of the patient;

b. Procedure for providing counseling;

c. Procedure and recordkeeping for return of any prescription medications not delivered to the patient;

d. The procedure for assuring confidentiality of patient information; and

e. The procedure for informing the patient and obtaining consent if required by law for using such a delivery process.

3. Prescriptions waiting to be picked up by a patient at the alternate site shall be stored in ~~accordance with 18 VAC 110-20-710~~ a lockable room or lockable cabinet, cart, or other device that cannot be easily moved and that shall be locked at all times when not in use. Access shall be restricted to the licensed practitioner of the healing arts or the responsible party listed on the application for the controlled substances registration, or either person's designee.

18 VAC 110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions which meet USP-NF specifications or manufacturers' suggested storage for each drug.

B. Any drug which has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedule II through VI drugs, he shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device or other area which shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18 VAC 110-20-700 C.

E. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet or area which has a security device for the detection of breaking which meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

2. The installation shall be hard wired and both the installation and device shall be based on accepted burglar alarm industry standards.

3. The device shall be maintained in operating order and shall have an auxiliary source of power.

4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.

5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

6. An alarm system is not required for researchers or, animal control officers, humane societies, or alternate delivery sites as provided in 18 VAC 110-20-275.

VA.R. Doc. No. R06-245; Filed May 30, 2006, 3:34 p.m.

FORMS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

EDITOR'S NOTICE: The following forms have been filed by the Department of Mines, Minerals and Energy. The forms are available for public inspection at the Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, at the department's Big Stone Gap office, 3405 Mountain Empire Road, Big Stone Gap, VA 24219, or the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219. Copies of the forms may be obtained from David B. Spears, Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, telephone (804) 692-3200.

FORMS IMPLEMENTING CHAPTERS 14.2 THROUGH 14.4 OF TITLE 45.1 OF THE CODE OF VIRGINIA REGARDING COAL MINE SAFETY

License Application for Coal Mining, ~~DMM~~ DM-CM-1 (rev. 9/96 3/06).

Coal Mining Schedule, DM-CM2 (rev. 1/00).

Request for Change in Mine License Application Information, DM-LI-1 (rev. 3/00).

Blasting-Solid Shooting Plan, DM-MS-B-001 (rev. 7/94).

Notice of Operator Intent, DM-NI-01 (rev. 7/94).

Notification of Right to Appeal To The Department of Mines, Minerals and Energy, DM-NRA-01 (rev. 7/94).

Roof Control Plan Quick Change Form, DM-RFQC (rev. 4/95).

Underground Mine Risk Assessment, DM-RAU-1 (8/95).

Surface Mine, Auger, Highwall Miner Risk Assessment, DM-RAS-1 (8/95).

Request for Release of Mine Map, DM-MR-1/DMM-155 (rev. 3/97).



Department of Mines, Minerals and Energy
 Division of Mines
 P.O. Drawer 900
 Big Stone Gap, VA 24219
 (276)523-8100 / Fax (276) 523-8239

LICENSE APPLICATION FOR COAL MINING

This company is a : Sole Proprietorship Complete this page and Section A on page 2.
 Partnership Complete this page and Section B on page 2.
 Corporation Complete this page and Section C on page 2.
 Other Complete this page and Section D on page 2.

Official Business Name of Operator/Company: _____
 Mine Name: _____ Mine Ph. # _____ DMLR # _____ MSHA ID # _____
 Official Mailing Address: _____
 Company Telephone # _____ Official E-mail address: _____
 Mine is located (County): _____ Directions to mine: _____

Application for: New Mine Change of Ownership
 If Change of Ownership: Previous Company Name: _____
 Previous Mine Index #: _____ Previous Mine Name: _____
 Mine Type: Underground Surface Face Up Auger Highwall Prep Plant Reclamation Only
 Seam: _____ Latitude: _____ Longitude: _____

Name and address of the person with overall responsibility for operating decisions at the mine: _____

Name(s) and address(es) of the lead person with overall responsibility for health and safety at the mine, and others as applicable: _____

Additional Sheet Attached
 Name(s) and address(es) of agent(s) of the operator with responsibility for the business operation of the mine: _____

Additional Sheet Attached
 Name(s) and address(es) of person(s) with an ownership or leasehold interest in the coal or minerals to be mined: _____

Additional Sheet Attached
 Name(s) and address(es) of person(s) to be contacted in the event of an accident or other emergency at the mine: _____

Additional Sheet Attached
 The items checked below are attached with this application:
 For all applications: \$180.00 application fee (Cash or Check made payable to the Treasurer of Virginia)
 For change of ownership applications: Letter of relinquishment completed by previous operator
 DM-CM-2 Form (tonnage report) completed by previous operator
 Final mine map from previous operator

I certify under Section 45.1-161.66 of the Code of Virginia that the information provided in this application and required attachments are true, complete, and accurate.

(Signature) _____ (Date) _____
 I am the ___ Agent ___ Corporate Officer ___ Partner ___ Sole Proprietor

Forms

Section A: Sole Proprietorship

Full name, address and telephone number of Sole Proprietor: _____

Trade name, if any, and address and telephone number of Proprietorship: _____

Federal mine ID numbers of all other mines in which the **sole proprietor** has 20% or greater ownership interest: _____

Additional Sheet Attached

Section B: Partnership

Trade name, if any, and address and telephone number of Partnership: _____

Federal mine ID numbers of all other mines in which the **partnership** has 20% or greater ownership interest: _____

Additional Sheet Attached

Full name(s) and address(es) of all partners: _____

Additional Sheet Attached

Federal mine ID numbers of all other mines in which **any partner** has 20% or greater ownership interest: _____

Section C: Corporation

Name, address and telephone number of Corporation: _____

State of incorporation _____

If corporation is a subsidiary corporation, name and address of parent corporation: _____

State of incorporation of parent corporation _____

Federal mine ID numbers of all other mines in which the **corporation** has 20% or greater ownership interest: _____

Additional Sheet Attached

Full name(s) and address(es) of each officer and director of the corporation: _____

Additional Sheet Attached

Federal mine ID numbers of all other mines in which **any corporate officer** has 20% or greater ownership interest: _____

Additional Sheet Attached

Section D: Other Types of Organizations

Type of organization: _____

Name, address and telephone number of Organization: _____

Federal mine ID numbers of all other mines in which the **organization** has 20% or greater ownership interest: _____

Additional Sheet Attached

Full name(s) and address(es) of each individual who has an ownership interest in the organization: _____

Additional Sheet Attached

Full name(s) and address(es) of principal organization officials or members: _____

Additional Sheet Attached

Federal mine ID numbers of all other mines in which **any official or member** has 20% or greater ownership interest: _____

Additional Sheet Attached

GOVERNOR

EXECUTIVE ORDER NUMBER 11 (2006)

DECLARATION OF A STATE OF EMERGENCY FOR PATRICK COUNTY IN THE COMMONWEALTH OF VIRGINIA DUE TO SIGNIFICANT FIRE DAMAGE RESULTING IN A LOCAL EMERGENCY IN PATRICK COUNTY, VIRGINIA

On April 15, 2006, I verbally declared a state of emergency to exist in Patrick County due to significant fire damages in Patrick County. Beginning on April 14, 2006 wildfire incidents have occurred impacting 4,000 acres, destroying three residences and six other structures while threatening an additional 100 residences.

The health and general welfare of our citizens required that state action be taken to help alleviate the conditions resulting from this situation and to enhance readiness in the event of further wildfire impacts. I feel that the effects of these incidents constitutes a disaster wherein human life and public and private property were imperiled, as described in § 44-75.1 A 4 of the Code of Virginia. I specifically authorized placement of assets of the Virginia National Guard to state duty for deployment to assist the Virginia Department of Forestry at its request to fight the Patrick County fire and help mitigate the effects of the fire.

Therefore, by virtue of the authority vested in me by § 44-146.17 of the Code of Virginia, as Governor and as Director of Emergency Management, and by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia and by § 44-75.1 of the Code of Virginia, as Governor and Commander-in-Chief of the armed forces of the Commonwealth, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby confirm, ratify, and memorialize in writing my verbal orders issued April 15, 2006. In these I proclaimed that a state of emergency exists and directed that appropriate assistance be rendered by agencies of state government to respond to needs in the impacted county. This will support the needs of persons affected who are relocated in Patrick County to alleviate any conditions resulting from wildfires and to implement recovery and mitigation programs and activities so as to return impacted areas to pre-event conditions insofar as possible. Pursuant to § 44-75.1 A 3 and A 4 of the Code of Virginia, I directed that the Virginia National Guard be called forth to state duty to assist in providing such aid. This shall include such functions as the State Coordinator of Emergency Management, the Adjutant General, the State Forester, and the Secretaries of Public Safety and Agriculture and Forestry may find necessary.

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

A. The limited implementation by agencies of the state and local governments of Volumes 1 (Basic Plan) and Volume 2 (Disaster Recovery Plan) of the Virginia Emergency

Operations Plan, as amended, along with other appropriate state agency plans.

B. Limited activation of the Virginia Emergency Operations Center (VEOC) and Virginia Emergency Response Team (VERT) to coordinate the provision of assistance to Patrick County. I am directing that the VEOC and VERT coordinate state operations in support of the EMAC agreement, other mission assignments to agencies designated in the Commonwealth of Virginia Emergency Operations Plan (COVEOP) and other measures that may be identified by the State Coordinator of Emergency Management and the State Forester, in consultation with the Secretaries of Public Safety and Agriculture and Forestry, which are needed to provide assistance for the preservation of life, protection of property, and implementation of recovery activities.

C. The activation, implementation and coordination of appropriate mutual aid agreements and compacts, including the Emergency Management Assistance Compact (EMAC), and the authorization of the State Coordinator of Emergency Management to enter into any other supplemental agreements, pursuant to §§ 44-146.17(5) and 44-146.28:1 of the Code of Virginia to provide for the exchange of medical, fire, police, National Guard personnel and equipment, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies. The State Coordinator of Emergency Management is hereby designated as Virginia's authorized representative within the meaning of the Emergency Management Assistance Compact, § 44-146.28:1 of the Code of Virginia.

D. The authorization of the Departments of State Police, Transportation and Motor Vehicles to grant temporary overweight, over width, registration, or license exemptions to all carriers transporting essential commodities in and through any area of the Commonwealth in order to support the emergency conditions, regardless of their point of origin or destination. The axle and gross weights shown below are the maximum allowed, unless otherwise posted.

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

All over width loads, up to a maximum of 14 feet, must follow Virginia Department of Transportation (VDOT) hauling permit and safety guidelines.

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

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responsible for permit issuance and truck legalization enforcement.

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

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

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

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

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

H. The following conditions apply to the deployment of the Virginia National Guard:

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

2. Pursuant to § 52-6 of the Code of Virginia, I authorize and direct the Superintendent of State Police to appoint any and all such Virginia Army and Air National Guard personnel called to state active duty as additional police

officers. These police officers shall have the same powers and perform the same duties as the regular State Police officers appointed by the Superintendent. However, they shall nevertheless remain members of the Virginia National Guard, subject to military command as members of the State Militia. Any bonds and/or insurance required by § 52-7 of the Code of Virginia shall be provided for them at the expense of the Commonwealth.

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

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

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

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

5. The costs incurred by the Department of Military Affairs in performing these missions shall be paid from state funds.

I. A state of emergency exists for the Commonwealth in support of the proper management, care and support of persons who have been displaced by Patrick County wildfires. I hereby order the following measures:

1. Designation of physicians, nurses, and other licensed and non-licensed health care providers and other

individuals as well as hospitals, nursing facilities and other licensed and non-licensed health care organizations, political subdivisions and other private entities by agencies of the Commonwealth, including but not limited to the Department of Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, Department of Emergency Management, Department of Forestry, Department of Transportation, Department of State Police, Department of Motor Vehicles, and Department of Social Services, as representatives of the Commonwealth engaged in emergency services activities, at sites designated by the Commonwealth, within the meaning of the immunity provisions of § 44-146.23 (a) of the Code of Virginia, in the performance of their disaster-related mission assignments.

J. The authorization to reimburse agencies of up to \$250,000 from state funds for the costs associated with this executive order. The Department of Planning and Budget shall determine those costs that require reimbursement.

Upon my approval, the costs incurred by state agencies and other agents in performing mission assignments through the VEOC of the Commonwealth as defined herein and in § 44-146.28 of the Code of Virginia.

This Executive Order shall be effective April 15, 2006 and shall remain in full force and effect until April 15, 2007, unless sooner amended or rescinded by further executive order. Termination of the Executive Order is not intended to terminate any Federal-type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 21st day of April 2006.

/s/ Timothy M. Kaine
Governor

EXECUTIVE ORDER NUMBER 13 (2006)

THE GOVERNOR'S COMMISSION ON COMMUNITY AND NATIONAL SERVICE

Community and national service are vital to the fabric of American democracy. Volunteerism and service are critical aspects of our civic life. It is appropriate that the state and federal governments work together to develop a focal point for these efforts.

Mindful of the importance of community and national service, and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Commission on Community and National Service.

The Commission is classified as a gubernatorial advisory commission in accordance with Section 2.2-2100 of the Code of Virginia.

The Commission shall be established to comply with the provisions of the National and Community Services Trust Act of 1993 and to advise the Governor and Cabinet Secretaries on matters related to promotion and development of national service in the Commonwealth of Virginia. The Commission shall have the following specific duties:

1. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Assistant to the Governor for Commonwealth Preparedness, the Commissioner of the Department of Social Services, and other appropriate officials, on national and community service programs in Virginia and on fulfilling the responsibilities and duties prescribed by the federal Corporation for National Service.
2. To advise the Governor, the Secretaries of Health and Human Resources, Education, Natural Resources, the Assistant to the Governor for Commonwealth Preparedness, the Commissioner of the Department of Social Services, and other appropriate officials, on the development, implementation, and evaluation of Virginia's Unified State Plan that outlines strategies for supporting and expanding national and community service throughout the Commonwealth.
3. To promote the expansion of AmeriCorps programs to meet Virginia's most pressing human, educational, environmental, and public safety needs.
4. To work collaboratively with Virginia Corps and the Citizen Corps initiative to promote volunteerism and public service throughout the Commonwealth.
5. To collaborate with the Virginia Department of Social Services and other public and private entities to recognize and call attention to the significant community service contributions of Virginia citizens and organizations.
6. To develop a plan for sustaining and increasing the number of Virginia service programs supported by the Corporation for National Service.
7. To promote and coordinate State programs offering opportunities for community service within the Commonwealth.
8. To work with the Department of Social Services on promoting the involvement of faith based organizations in community and national service efforts.

The Commission shall be comprised of no more than twenty-five voting members appointed by the Governor and serving at his pleasure. No more than 25 percent of voting members may be state employees.

The Governor may appoint additional persons at his discretion as ex-officio non-voting members. The voting members of the Commission shall elect the Chairman. Commission voting membership shall include representatives for the categories as outlined in federal regulations issued by the Corporation for National Service.

Such staff support as is necessary to support the Commission's work during the term of its existence shall be furnished by the Virginia Department of Social Services, and

Governor

any other executive branch agencies having definitely and closely related purposes, as the Governor may designate. An estimated 2000 hours of staff time will be required to support the work of the Commission.

Funding necessary to support the Commission and its staff shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes of the Commission, authorized by Section 2.2-135 of the Code of Virginia. Direct costs for this Commission are estimated at \$9,000. Members of the Commission shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties.

The Commission shall meet at least quarterly upon the call of the Chairperson. The Commission shall make an annual report to the Governor and shall issue such other reports and recommendations as it deems necessary or as requested by the Governor.

This Executive Order shall be effective upon its signing and shall remain in force and effect until May 12, 2007, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 19th day of May 2006.

/s/ Timothy M. Kaine
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Benthic TMDL Development for Bull Run

Announcement of a second public comment period for the revised study to restore water quality in Bull Run, Virginia.

Purpose of notice: To seek public comment on the revised draft "Benthic TMDL Development for Bull Run, Virginia" water quality improvement study by the Virginia Department of Environmental Quality and the Virginia Department of Conservation and Recreation.

Description of study: The impaired benthic segment of Bull Run (VAN-A23R-01) is 4.8 miles in length extending from the confluence of Cub Run with Bull Run and continuing downstream to the confluence of Popes Head Creek with Bull Run. Bull Run was initially listed on Virginia's 1994 Section 303(d) List, and was subsequently included on Virginia's 1998 and 2002 Section 303(d) Lists of Impaired Waters (DEQ, 1998; 2002) and in the 2004 Water Quality Assessment 305(b)/303(d) Integrated Report (DEQ, 2004) because of violations of General Standard (benthic impairment). Bull Run was also listed on the 2004 Water Quality Assessment 305(b)/303(d) Integrated Report due to exceedances of the water quality standards for fecal coliform bacteria and PCB concentrations in fish tissue samples. This report addresses the benthic impairment; the bacteria and PCB impairments will be addressed in separate TMDL studies. The study identifies the pollutants impairing the aquatic community and recommends total maximum daily loads, or TMDLs, for sediment in Bull Run. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL involves a public comment period, including public meetings. The draft TMDL report was revised after the final public meeting and it is the revised report that is available for public review and comment. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting, and be received by DEQ during the comment period, June 26 to July 26, 2006.

To review the draft TMDL report: The revised draft TMDL report for Bull Run is available from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Katie Conaway, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, FAX (703) 583-3841, or e-mail mkconaway@deq.virginia.gov.

Bacteria TMDL for the Goose Creek Watershed

Announcement of a public comment period for modifications to the TMDL study to restore water quality in the Goose Creek Watershed in Loudoun and Fauquier Counties.

Purpose of notice: To seek public comment on modifications of the water quality improvement study entitled "Bacteria TMDL for the Goose Creek Watershed" by the Virginia Department of Environmental Quality (VDEQ).

Description of study: Total maximum daily loads (TMDLs) of bacteria were developed to address bacteria impairments in the Goose Creek Watershed. These TMDLs were approved by the Environmental Protection Agency on 05/01/2003 and can be found at the following website:

http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_result.cfm

The VDEQ seeks written comments from interested persons on the modification of this TMDL. The original TMDL did not include an allowance for growth and expansion of permitted facilities in the watershed. Therefore, the revised report includes modifications to the wasteload allocations and TMDLs to allow for future expansions in the watershed. The load allocations remain unchanged, but the TMDLs were increased to reflect the increase in wasteload allocation.

The proposed increase will not cause a water quality violation because Virginia's Water Quality standards for bacteria require that treated effluent discharged into a receiving stream meet the bacteria criteria for the stream. VDEQ has performed additional modeling to confirm that at five times the wasteload allocation, the water quality standard would not be violated if permitted dischargers are required to discharge at an E. coli concentration of 126 cfu/100ml. To review the proposed revisions to the wasteload allocation tables and TMDL equation tables, please contact Katie Conaway using the contact information below.

How a decision is made: The modifications to the Goose Creek Bacteria TMDL will undergo a 30-day public comment period. After public comments have been considered and addressed, DEQ will prepare a TMDL modification document and submit the document to EPA for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting, and be received by DEQ at the address provided below during the comment period, June 26 to July 26, 2006.

Contact for additional information: Katie Conaway, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, FAX (703) 583-3841, or e-mail mkconaway@deq.virginia.gov.

Benthic TMDL Development for Popes Head Creek

Announcement of a second public comment period for the revised study to restore water quality in Popes Head Creek, Virginia.

General Notices/Errata

Purpose of notice: To seek public comment on the revised draft "Benthic TMDL Development for Popes Head Creek, Virginia" water quality improvement study by the Virginia Department of Environmental Quality and the Virginia Department of Conservation and Recreation.

Description of study: The impaired benthic segment of Popes Head Creek (VAN-A23R-02) is 4.92 miles in length, beginning at the confluence of Piney Branch and Popes Head Creek, and ending at the confluence of Popes Head Creek with Bull Run. Popes Head Creek was initially listed on Virginia's 1998 Section 303(d) List of Impaired Waters (DEQ, 1998) and was subsequently included on Virginia's 2002 Section 303(d) List of Impaired Waters and in the 2004 Water Quality Assessment 305(b)/303(d) Integrated Report (DEQ, 2002; 2004) because of violations of the water quality standards for fecal coliform bacteria and the General Standard (benthic impairment). This report addresses the benthic impairment; the bacteria impairment will be addressed in a separate TMDL report. The study identifies the pollutants impairing the aquatic community and recommends total maximum daily loads, or TMDLs, for sediment in Popes Head Creek. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL involves a public comment period, including public meetings. The draft TMDL report was revised after the final public meeting and it is the revised report that is available for public review and comment. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting, and be received by DEQ during the comment period, June 26 to July 26, 2006.

To review the draft TMDL report: The revised draft TMDL report for Popes Head Creek is available from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Katie Conaway, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, FAX (703) 583-3841, or e-mail mkconaway@deq.virginia.gov.

Bacteria TMDLs for Popes Head Creek, Broad Run, Kettle Run, South Run, Little Bull Run, Bull Run and the Occoquan River

Announcement of a second public comment period for the revised study to restore water quality in Popes Head Creek, Broad Run, Kettle Run, South Run, Little Bull Run, Bull Run and the Occoquan River, Virginia.

Purpose of notice: To seek public comment on the revised draft "Bacteria TMDLs for Popes Head Creek, Broad Run, Kettle Run, South Run, Little Bull Run, Bull Run and the Occoquan River, Virginia" water quality improvement study by

the Virginia Department of Environmental Quality and the Virginia Department of Conservation and Recreation.

Description of study: Segments of Broad Run, Kettle Run, South Run, Popes Head Creek, Little Bull Run, Bull Run, and the Occoquan River were listed as impaired on Virginia's 1998 303(d) Total Maximum Daily Load Priority List and Report (DEQ, 1998) because of violations of the state's water quality standard for fecal coliform bacteria. These segments were also included on Virginia's 2002 303(d) Report on Impaired Waters and 2004 305(b)/303(d) Water Quality Assessment Integrated Report. The impaired segments are located in the Occoquan River Basin in Northern Virginia. The study presents the sources of bacteria contamination and a total maximum daily load, or TMDL, for bacteria in each impaired segment of the Occoquan Watershed. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How a decision is made: The development of a TMDL involves a public comment period, including public meetings. The draft TMDL report was revised after the final public meeting and it is the revised report that is available for public review and comment. After public comments have been considered and addressed, DEQ will submit the TMDL report to the U.S. Environmental Protection Agency for approval.

How to comment: DEQ accepts written comments by e-mail, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting, and be received by DEQ during the comment period, June 26 to July 26, 2006.

To review the draft TMDL report: The revised draft TMDL report for Broad Run, Kettle Run, South Run, Popes Head Creek, Little Bull Run, Bull Run, and the Occoquan River is available from the contact below or on the DEQ website at www.deq.virginia.gov/tmdl.

Contact for additional information: Katie Conaway, Regional TMDL Coordinator, Virginia Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3804, FAX (703) 583-3841, or e-mail mkconaway@deq.virginia.gov.

Total Maximum Daily Load (TMDL) - South River

The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of a total maximum daily load (TMDL) for mercury in the South River in Augusta and Rockingham Counties. The South River was listed on the 1998 303(d) TMDL Priority List and Report as impaired due to a Virginia Department of Health fish consumption advisory for mercury. This impairment extends from the DuPont foot bridge over the South River in Waynesboro to the confluence of the South Fork Shenandoah River. The impairment continues for the entire length of the South Fork Shenandoah River and ends on the main stem of the Shenandoah River at the Warrenton Power Dam. The impairment also includes a section of the North Fork Shenandoah River from its mouth upstream to the

Riverton Dam. The entire mercury fish consumption impairment covers a total of 129 miles of stream.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report. DEQ is developing a mercury TMDL for the South River to address this fish consumption impairment.

The first public meeting on the development of this TMDL will be held on Monday, July 17, 2006, 7 p.m. at the Charles Yancey Municipal Building, 503 W. Main Street, Waynesboro, Virginia.

The public comment period for the first public meeting will end on August 17, 2006. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Robert Brent, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, or e-mail rbrent@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Reset the Inpatient Hospital Adjustment Factor for Private Hospitals and to Change Certain Components of the Nursing Facility Reimbursement Methodology

Notice is hereby given that the Department of Medical Assistance Services (DMAS), contingent upon a signed 2006 Appropriation Act, intends to (i) set the inpatient hospital adjustment factor for private hospitals at a rate set by the 2006 Appropriation Act; (ii) adjust certain factors regarding direct and indirect care reimbursement ceilings for nursing facilities, as directed by the 2006 Appropriation Act; and (iii) adjust the limits for nursing facility administrator salaries, medical director salaries limits and management fees, as directed by the 2006 Appropriation Act. These changes are being made pursuant to the department's authority under Title XIX of the Social Security Act.

This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). A copy of this notice is available for public review from William Lessard, Acting Director, Provider Reimbursement Division, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review on the Regulatory Town Hall (www.townhall.virginia.gov). Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Lessard and such comments are available for review at the same address.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

Notice of Public Comment Period for Study of the Auto Body Repair Industry

The Board for Professional and Occupational Regulation is conducting a study to determine whether the auto body repair industry needs to be regulated. The board invites public comment on this issue. This review is being conducted pursuant to subsection A 6 of § 54.1-310 and § 54.1-311 of the Code of Virginia. The board welcomes written comments on whether the auto body repair industry needs to be regulated.

Written comments will be received until 5 p.m. on Friday, August 25, 2006, and may be sent to the address below or sent to bpor@dpor.virginia.gov. Comments or questions should be sent to Mark N. Courtney, Executive Director, Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, VA 23230, e-mail bpor@dpor.virginia.gov, telephone (804) 367-8514.

Public hearings will be held on the following dates and times at the following locations:

10 a.m., Wednesday, June 28, 2006:
Department of Professional and Occupational Regulation
3600 West Broad St., Conf. Rm. 5W
Richmond, VA 23230

10 a.m., Friday, June 30, 2006:
Arlington County Board Room 307
#1 Courthouse Plaza
2100 Clarendon Blvd
Arlington, VA 22201

10 a.m., Tuesday, July 11, 2006:
City of Hampton Council Chambers
22 Lincoln Street, 8th Flr.
Hampton, VA 23669

10 a.m., Thursday, July 13, 2006:
Roanoke City Council Chambers
Noel C. Taylor Municipal Bldg, 4th Flr.
215 Church Ave, SW
Roanoke, VA 24011

STATE CORPORATION COMMISSION

May 24, 2006

Administrative Letter 2006-08

To: All Licensed Property and Casualty Insurers and Rate Service Organizations

Re: Method of Implementation No Longer Required to be Stated in Filings; Withdrawal of Administrative Letter 2005-02

Administrative Letter 2005-02 was issued to address certain regulatory procedures and requirements pertaining to how insurers implement filings. One of the changes was the

General Notices/Errata

elimination of the requirement that insurers implement filings based on the policy effective date. This change was intended to allow insurers and rate service organizations the option of selecting other methods of implementation (such as policies written on and after a specified date, policies issued on and after a specified date, etc.) for their filings. The letter also explained that it was acceptable for insurers to continue using the policy effective date method.

Since the Bureau of Insurance (Bureau) expected many filers to choose a method of implementation other than policies effective, Administrative Letter 2005-02 required filers to state the selected method of implementation either in the cover letter or within the transmittal documents that accompany the filing. However, after further consideration, the Bureau has determined that insurers should not be required to provide a statement in the filing declaring the method of implementation that the company has selected for the filing. Effective immediately, the following requirements apply:

- Each filing must include the effective date that the company will use for implementation of the materials in the filing.
- The method of implementation selected by the insurer must be applied consistently within each company named in the filing.
- The effective date and method of implementation must comply at all times with all of the provisions of Title 38.2 of the Code of Virginia.

As was permitted in Administrative Letter 2005-02, insurers will continue to be allowed to file rules that allow the company to calculate premiums for a new exposure or coverage using the rates that are in effect at the time that the new exposure or coverage is being added to the policy.

This position is in keeping with the Bureau's and the National Association of Insurance Commissioners' speed-to-market initiatives.

Further, none of the provisions of this letter apply to workers' compensation filings. Filers should refer to Administrative Letter 2005-03 for information regarding workers' compensation filings.

Administrative Letter 2005-02, which established a filing requirement that is no longer applicable, is hereby withdrawn.

Questions pertaining to Administrative Letter 2006-08 should be directed to the Property and Casualty Division's Rates and Forms Sections at (804) 371-9965 (Personal Lines) and (804) 371-9298 (Commercial Lines).

/s/ Alfred W. Gross
Commissioner of Insurance

May 30, 2006

Administrative Letter 2006-9

To: All Companies Licensed to Sell Life Insurance in Virginia, all Burial Societies licensed in Virginia, all Limited Lines Life and Health Agents Licensed in Virginia, and Interested Parties

Re: § 38.2-1800 - Definition of Limited Burial Insurance Authority

In light of the passage of HB 573, which raises the limit from \$7500 to \$10,000 on limited burial insurance authority (effective July 1, 2006), the Bureau of Insurance (the Bureau), issues this Administrative Letter in an effort to clarify this type of authority and eliminate some confusion that companies and agents may have.

Effective July 1, 2006, Code of Virginia § 38.2-1800 defines "limited burial insurance authority":

"Limited burial insurance authority" means the authority in this Commonwealth to sell, solicit, or negotiate burial insurance society membership where the certificates of membership will not exceed \$10,000 on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of this title; or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that association for burial association group life insurance certificates in amounts of \$10,000 or less.

The Bureau issues a limited lines life and health (type 080) license to persons who wish to sell burial insurance. The limits of this license allow for the sale of burial insurance in only two ways:

1. Burial society. There is currently one licensed burial society in Virginia. Certificates of membership that in total do not exceed \$10,000 may be sold by the limited lines agent and issued by the burial society to any one individual.
2. Association group contract. A limited lines agent may solicit members of an association for burial association group life certificates not to exceed \$10,000 to one individual. These certificates must be issued from a group contract issued to an association for burial insurance. (Code of Virginia § 38.2-3318.1 E defines association and policy requirements).

Given these statutory limitations, the following guidance may be helpful:

- A limited lines agent may not sell certificates totaling more than \$10,000 to any one individual from any one burial society or under any one association group contract. This may be one certificate of \$10,000, or a combination.
- An individual may belong to more than one association to which a burial insurance group contract has been issued.
- Companies and agents may not circumvent these requirements by having more than one limited lines agent sell certificates of less than \$10,000 to any one individual, but where the total value of all certificates

issued to any one individual from any one burial society or under any one association group contract exceeds \$10,000.

- As specifically noted in the definition of "Limited Lines Life and Health Agent" in § 38.2-1800 of the Code of Virginia, a limited lines life and health agent may not sell life insurance, health insurance, property insurance, casualty insurance, and title insurance.

Questions regarding this letter may be directed to: Raymond O. Anderson, Supervisor, Life and Health Agent Investigations, P.O. Box 1157, Richmond, VA 23218, telephone (804) 371-9494, FAX (804) 371-9821.

We appreciate your consideration of this matter.

/s/ Alfred W. Gross
Commissioner of Insurance

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on June 7, 2006. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

Final Rules for Game Operation:

Director's Order Number Twenty-Nine (06)

Virginia's Instant Game Lottery 297; "Money Train" (effective 6/2/06)

Director's Order Number Thirty (06)

Virginia's Instant Game Lottery 725; "Bank Roll" (effective 6/2/06)

Director's Order Number Thirty-One (06)

Virginia's Instant Game Lottery 726; "\$150,000 Payday" (effective 6/2/06)

Director's Order Number Thirty-Two (06)

Virginia's Instant Game Lottery 299; "Gone Fishin" (effective 6/2/06)

Director's Order Number Thirty-Three (06)

Virginia's Instant Game Lottery 729; "Tiki Tripler" (effective 6/2/06)

BOARD OF VETERINARY MEDICINE

Notice of Periodic Review of Regulations

The Board of Veterinary Medicine within the Department of Health Professions is preparing to conduct a periodic review of 18 VAC 150-20, Regulations Governing the Practice of Veterinary Medicine.

The board is receiving comment on whether there is a need for amendments for clarification and for consistency with changes in law and practice.

Regulations may be viewed online at <http://leg1.state.va.us/000/reg/TOC18150.HTM>, www.townhall.virginia.gov or www.dhp.virginia.gov or copies will be sent upon request.

Comment begins June 26, 2006, and ends on July 26, 2006. If any member of the public would like to comment on these regulations, please send comments by the close of the comment period to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6603 West Broad Street, Richmond, VA 23230-1712, e-mail elaine.yeatts@dhp.virginia.gov or FAX (804) 662-9114.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

Forms for Filing Material for Publication in the Virginia Register of Regulations

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://register.state.va.us>.

FORMS:

NOTICE of INTENDED REGULATORY ACTION-RR01
NOTICE of COMMENT PERIOD-RR02
PROPOSED (Transmittal Sheet)-RR03
FINAL (Transmittal Sheet)-RR04
EMERGENCY (Transmittal Sheet)-RR05
NOTICE of MEETING-RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS-RR08
RESPONSE TO PETITION FOR RULEMAKING-RR13
FAST-TRACK RULEMAKING ACTION-RR14

CALENDAR OF EVENTS

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

♿ Location accessible to persons with disabilities

☎ Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY☎, or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

DEPARTMENT FOR THE AGING

July 12, 2006 - 1 p.m. -- Public Hearing

Department for the Aging, 1610 Forest Avenue, Suite 100, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A public hearing regarding the "Virginia State Plan for Aging Services" October 1, 2003, through September 30, 2007, Section VIII, Financial Plan – Amending the Title III Intrastate Funding Formula. Copies are available on the Virginia Department for the Aging website at www.vda.virginia.gov or by request.

Contact: Tim M. Catherman, Department for the Aging, 1610 Forest Ave., Suite 100, Richmond, VA 23229, telephone (804) 662-9309, FAX (804) 662-9354, toll-free (800) 552-3402, (800) 552-3402/TTY☎, e-mail tim.catherman@vda.virginia.gov.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Peanut Board

† **July 18, 2006 - 10:30 a.m.** -- Open Meeting

Tidewater Agriculture Research and Extension Center, 6321 Holland Road, Suffolk, Virginia.♿

A meeting to (i) hear and approve the minutes of the last meeting held on March 21, 2006; (ii) review the board's financial statement; and (iii) receive information on the board's program area accomplishments and expenses. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Thomas R. Cotton, Jr., at least five days before the meeting date so that suitable arrangements can be made.

Contact: Thomas R. (Dell) Cotton, Jr., Program Director, Department of Agriculture and Consumer Services, 1001 Campbell Ave., P.O. Box 59, Franklin, VA 23851-0059, telephone (757) 562-4103, FAX (757) 562-0744.

Virginia Small Grains Board

July 19, 2006 - 8 a.m. -- Open Meeting

Doubletree Hotel Richmond Airport, 5501 Eubank Road, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to (i) review FY 2005-06 project reports and receive and approve the 2006-07 project proposals, (ii) hear and approve minutes from the last board meeting and a current financial statement, and (iii) take action on any other new business that comes before the group. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 102 Governor St., 3rd Floor, Room 316, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786, e-mail phil.hickman@vdacs.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD


June 27, 2006 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Fredericksburg Office, 806 Westwood Office Park, Fredericksburg, Virginia.♿


A regular meeting of the Small Business Environmental Compliance Advisory Board.

Contact: Richard G. Rasmussen, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4394, FAX (804) 698-4264, e-mail rgrasmussen@deq.virginia.gov.


ALCOHOLIC BEVERAGE CONTROL BOARD

July 10, 2006 - 9 a.m. -- Open Meeting
July 17, 2006 - 9 a.m. -- Open Meeting
August 7, 2006 - 9 a.m. -- Open Meeting
August 21, 2006 - 9 a.m. -- Open Meeting
September 5, 2006 - 9 a.m. -- Open Meeting
† September 18, 2006 - 9 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. 

An executive staff meeting to receive and discuss reports and activities from staff members and to discuss other matters not yet determined.


Contact: W. Curtis Coleburn, III, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, (804) 213-4687/TTY , e-mail curtis.coleburn@abc.virginia.gov.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

July 26, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting of the Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

August 2, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting of the Professional Engineers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

August 3, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting of the Landscape Architects Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

August 9, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


A meeting of the Land Surveyors Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

August 10, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the Interior Designers Section to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

September 7, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting of the full board to conduct board business. A portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the

Calendar of Events

meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Executive Director, Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475 or e-mail apelscidla@dpor.virginia.gov.

ART AND ARCHITECTURAL REVIEW BOARD


July 7, 2006 - 10 a.m. -- Open Meeting

August 4, 2006 - 10 a.m. -- Open Meeting

September 1, 2006 - 10 a.m. -- Open Meeting


Science Museum of Virginia, 2500 West Broad Street, Forum Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. Art and Architectural Review Board submittal forms and submittal instructions can be downloaded by visiting the DGS Forms Center at www.dgs.virginia.gov. Request form #DGS-30-905 or submittal instructions #DGS-30-906. The deadline for submitting project datasheets and other required information is two weeks prior to the meeting date.


Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 101 Shockoe Slip, 3rd Floor, Richmond, VA 23219, telephone (804) 648-5040, FAX (804) 225-0359, (804) 786-6152/TTY , or e-mail rford@comarchs.com.

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

August 16, 2006 - 9 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A general business meeting including consideration of regulatory issues as may be presented on the agenda. A portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: David Dick, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail alhi@dpor.virginia.gov.

AUCTIONEERS BOARD

July 6, 2006 - 10 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 3600 W. Broad St. Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail auctioneers@dpor.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY


† June 29, 2006 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Room 453, Richmond, Virginia. 


An informal fact-finding conference.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

August 7, 2006 - 9 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A general business meeting to include consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: William H. Ferguson, II, Executive Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail barbercosmo@dpor.virginia.gov.

BOARD FOR THE BLIND AND VISION IMPAIRED

July 11, 2006 - 1 p.m. -- Open Meeting


Department for the Blind and Vision Impaired, 397 Azalea Avenue, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review information regarding the Department for the Blind and Vision Impaired's activities and operations, review expenditures from the board endowment fund, and discuss other issues brought before the board.


Contact: Katherine C. Proffitt, Administrative Assistant, Department for the Blind and Vision Impaired, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3145, FAX (804) 371-3157, toll-free (800) 622-2155, (804) 371-3140/TTY , e-mail kathy.proffitt@dbvi.virginia.gov.

BOARD FOR BRANCH PILOTS


July 27, 2006 - 8:30 a.m. -- Open Meeting

Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 


A meeting of the Examination Administrators to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.virginia.gov.

July 28, 2006 - 9:30 a.m. -- Open Meeting


Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. All meetings are subject to cancellation. Any person desiring to attend the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Branch Pilots, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail branchpilots@dpor.virginia.gov.

CHARITABLE GAMING BOARD

September 12, 2006 - 10 a.m. -- Open Meeting

Science Museum of Virginia, 2500 West Broad Street, Richmond, Virginia. 

A regular board meeting.

Contact: Clyde E. Cristman, Director, Department of Charitable Gaming, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-1681, FAX (804) 786-1079, e-mail clyde.cristman@dcbg.virginia.gov.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

August 15, 2006 - 10 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Northern Area Review Committee to review local programs.

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

August 15, 2006 - 2 p.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, 17th Floor Conference Room, Richmond, Virginia.

A regular meeting of the Southern Area Review Committee to review local programs.

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

† September 18, 2006 - 10 a.m. -- Open Meeting

Location to be announced.


A regular meeting to review local programs.

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

STATE CHILD FATALITY REVIEW TEAM

July 11, 2006 - 10 a.m. -- Open Meeting

September 12, 2006 - 10 a.m. -- Open Meeting

Office of the Chief Medical Examiner, 400 East Jackson Street, Richmond, Virginia. 


The business portion of the State Child Fatality Review Team meeting, from 10 a.m. to 10:30 a.m., is open to the public. At the conclusion of the open meeting, the team will go into closed session for confidential case review.

Contact: Rae Hunter-Havens, Coordinator, State Child Fatality Review, 400 East Jackson St., Richmond, VA 23219,

Calendar of Events

telephone (804) 786-1047, FAX (804) 371-8595, toll-free (800) 447-1708, e-mail rae.hunter-havens@vdh.virginia.gov.

COMPENSATION BOARD

† **July 26, 2006 - 11 a.m.** -- Open Meeting
102 Governor Street, Lower Level, Room LL22, Richmond, Virginia. 

A monthly board meeting.

Contact: Cindy P. Waddell, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 225-3308, FAX (804) 371-0235, e-mail cindy.waddell@scb.virginia.gov.

DEPARTMENT OF CONSERVATION AND RECREATION

† **June 29, 2006 - 1 p.m.** -- Open Meeting
VDOT Training Center, Farmville, Virginia.

A meeting of the High Bridge Master Plan Advisory Committee to continue discussion of park master plan development to include environmental scoping.

Contact: Robert S. Munson, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 786-6141, e-mail robert.munson@dcr.virginia.gov.

July 13, 2006 - Noon -- Open Meeting

August 10, 2006 - Noon -- Open Meeting

† **September 14, 2006 - Noon** -- Open Meeting
Richmond City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia.

A regular meeting of the Falls of the James Scenic River Advisory Committee to discuss river issues.

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

Virginia Soil and Water Conservation Board

July 20, 2006 - 9:30 a.m. -- Open Meeting

September 21, 2006 - 9:30 a.m. -- Open Meeting
Location to be announced.

A regular board meeting.

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


BOARD FOR CONTRACTORS

June 27, 2006 - 9 a.m. -- Open Meeting


July 25, 2006 - 9 a.m. -- Open Meeting

August 22, 2006 - 9 a.m. -- Open Meeting

† **September 26, 2006 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A regular meeting to address policy and procedural issues and review and render decisions on matured complaints against licensees. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.


June 27, 2006 - 2 p.m. -- Open Meeting

June 29, 2006 - 9 a.m. -- Open Meeting


† **July 6, 2006 - 9 a.m.** -- Open Meeting

† **July 20, 2006 - 9 a.m.** -- Open Meeting


† **September 15, 2006 - 9 a.m.** -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 


An informal fact-finding conference.

Contact: Eric L. Olson, Executive Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

August 22, 2006 - 11:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulations, 3600 West Broad Street, Conference Room 4 West, Richmond, Virginia. 


A quarterly meeting of the Board for Contractors Committee to follow the regular board meeting.

Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail contractors@dpor.virginia.gov.

BOARD OF CORRECTIONS

July 18, 2006 - 10 a.m. -- Open Meeting

† **September 19, 2006 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. 

A meeting of the Liaison Committee to discuss correctional matters of interest to the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA

23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

July 18, 2006 - 1 p.m. -- Open Meeting

† **September 19, 2006 - 1 p.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor, Board Room, Richmond, Virginia. ♿

A meeting of the Correctional Services/Policy and Regulations Committee to discuss correctional services and policy/regulation matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

July 19, 2006 - 9:30 a.m. -- Open Meeting

† **September 20, 2006 - 9:30 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor, Room 3054, Richmond, Virginia. ♿

A meeting of the Administration Committee to discuss administrative matters to be considered by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

July 19, 2006 - 10 a.m. -- Open Meeting

† **September 20, 2006 - 10 a.m.** -- Open Meeting

Department of Corrections, 6900 Atmore Drive, 3rd Floor Board Room, Richmond, Virginia. ♿

A regular meeting of the full board to review and discuss all matters considered by board committees that require presentation to and action by the board.

Contact: Barbara Woodhouse, Administrative Staff Assistant, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3124, FAX (804) 674-3236, e-mail barbara.woodhouse@vadoc.virginia.gov.

BOARD OF COUNSELING

July 7, 2006 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia.

An informal fact-finding conference of the Discipline Committee to determine if possible violations of the regulations that govern the practice of counseling in Virginia have occurred.

Contact: Evelyn B. Brown, Executive Director, Board of Counseling, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9912, FAX (804) 662-9943, (804) 662-7197/TTY ♿, e-mail evelyn.brown@dhp.virginia.gov.

BOARD OF DENTISTRY

July 7, 2006 - 9 a.m. -- Open Meeting

July 21, 2006 - 9 a.m. -- Open Meeting

August 18, 2006 - 9 a.m. -- Open Meeting

September 8, 2006 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting of the Special Conference Committee to hold informal conferences. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ♿, e-mail cheri.emma-leigh@dhp.virginia.gov.

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† **July 21, 2006 - 8:30 a.m.** -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled **18 VAC 60-20, Regulations Governing the Practice of Dentistry and Dental Hygiene**. The purpose of the proposed action is to increase certain fees for applicants and licensees.

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

Public comments may be submitted until August 25, 2006, to Sandra K. Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, Richmond, VA 23230-1712.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

† **September 14, 2006 - 9 a.m.** -- Open Meeting

Roanoke Hotel and Convention Center, Roanoke, Virginia. ♿

Formal hearings. There will not be a public comment period.

Contact: Cheri Emma-Leigh, Operations Manager, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ♿, e-mail cheri.emma-leigh@dhp.virginia.gov.

† **September 15, 2006 - 9 a.m.** -- Open Meeting

Roanoke Hotel and Convention Center, Roanoke, Virginia. ♿

A meeting to discuss board business. There will be a 15-minute public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ♿, e-mail sandra.reen@dhp.virginia.gov.


Calendar of Events

DESIGN BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD


July 20, 2006 - 11 a.m. -- Open Meeting

August 17, 2006 - 11 a.m. -- Open Meeting

† September 21, 2006 - 11 a.m. -- Open Meeting

Department of General Services, 202 North Ninth Street, Room 412, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A monthly meeting to review requests submitted by localities to use the design build or construction management type contracts. Contact the Division of Engineering and Buildings to confirm this meeting. Board rules and regulations can be obtained on-line at www.dgs.virginia.gov under DGS Forms, Form #DGS-30-904.

Contact: Rhonda M. Bishton, Administrative Assistant, Division of Engineering and Buildings, Department of General Services, 202 N. Ninth St., Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY , e-mail rhonda.bishton@dgs.virginia.gov.

BOARD OF EDUCATION

June 28, 2006 - 9 a.m. -- Open Meeting

July 26, 2006 - 9 a.m. -- Open Meeting

James Monroe Building, 101 North 14th Street, Main Lobby Level, Conference Rooms C and D, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Public comment will be received. The public is urged to confirm arrangements prior to each meeting by viewing the Department of Education's public meeting calendar at <http://www.pen.k12.va.us/VDOE/meetings.html>. This site will contain the latest information on the meeting arrangements and will note any last minute changes in time or location. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency at least 72 hours in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

† August 25, 2006 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to amend regulations entitled **8 VAC 20-520, Regulations Governing Reduction of State Aid When Length of School Term Below 180 School Days**. The 2004 Virginia General Assembly passed three bills that amended § 22.1-98 of the Code of Virginia and made the changes effective from passage of the bills. The bills were HB 1256 (Van Landingham), SB 452 (Whipple), and HB 575 (Hamilton). HB 1256 and SB 452 clarify the schedule of makeup days

and circumstances in which approval may be granted so that state basic aid funding will not be reduced because of school closings due to severe weather conditions or other emergency situations. HB 575 permits the Board of Education to waive the requirement that school divisions compensate for school closings resulting from a declared state of emergency. HB 575 and SB 452 have emergency enactment clauses and are effective upon passage. HB 1256 and SB 452 require the Board of Education to promulgate regulations to implement the provisions to be effective within 280 days of enactment. Therefore, the amendments are required by changes to the Code of Virginia.

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


Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail margaret.roberts@doe.virginia.gov.

LOCAL EMERGENCY PLANNING COMMITTEE - WINCHESTER

June 28, 2006 - 3 p.m. -- Open Meeting


Timbrook Public Safety Center, 231 East Piccadilly Street, Winchester, Virginia.

A regular meeting.

Contact: L.A. Miller, Fire and Rescue Chief, Local Emergency Planning Committee, Winchester Fire and Rescue Department, 231 E. Piccadilly St., Winchester, VA 22601, telephone (540) 662-2298, FAX (540) 542-1318, (540) 662-4131/TTY 

DEPARTMENT OF ENVIRONMENTAL QUALITY


† July 17, 2006 - 7 p.m. -- Open Meeting

Charles Yancey Municipal Building, 503 West Main Street, Waynesboro, Virginia. 

The first public meeting on the development of a TMDL for mercury in the South River in Augusta and Rockingham Counties. The public comment period begins on July 17, 2006, and ends on August 17, 2006. The public notice appears in the Virginia Register of Regulations on June 26, 2006.

Contact: Robert Brent, Department of Environmental Quality, P.O. Box 3000, Richmond, VA 22801, telephone (540) 574-7848, FAX (540) 574-7878, e-mail rbrent@deq.virginia.gov.

† July 18, 2006 - 9 a.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A regular meeting of the Ground Water Protection Steering Committee.

Contact: Mary Ann Massie, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4042, e-mail mamassie@deq.virginia.gov.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS


June 27, 2006 - 10 a.m. -- Open Meeting

City Managers Office, City of Martinsville, 55 West Church Street, 2nd Floor, Conference Room 201, Martinsville, Virginia.

An informal conference.


Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523.

† July 18, 2006 - 9 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled **18 VAC 65-20, Regulations of the Board of Funeral Directors and Embalmers**. The purpose of the proposed action is to increase certain fees for applicants and licensees.

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

Public comments may be submitted until August 25, 2006, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad Street, 5th Floor Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.


Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

† July 18, 2006 - 9 a.m. -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 1, Richmond, Virginia. 

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to amend regulations entitled **18 VAC 65-40, Resident Trainee Program for Funeral Service**. The purpose of the proposed action is to provide greater flexibility and accountability in requirements for resident trainee program.


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

Public comments may be submitted until August 25, 2006, to Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6603 West Broad Street, 5th Floor Richmond, VA 23230-1712, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.virginia.gov.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

DEPARTMENT OF GAME AND INLAND FISHERIES


† July 18, 2006 - 2:30 p.m. -- Open Meeting

Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Education, Planning and Outreach Committee to continue work developing a board member orientation program and the committee's charter.

Contact: Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

† July 18, 2006 - 5:30 p.m. -- Open Meeting


Department of Game and Inland Fisheries, 4016 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Finance, Audit and Compliance Committee to continue review of the department's financial records and reporting format.


Contact: Belle Harding, Executive Secretary, Department of Game and Inland Fisheries, 4016 W. Broad St., Richmond VA 23230, telephone (804) 367-9231, e-mail belle.harding@dgif.virginia.gov.

BOARD FOR GEOLOGY

July 19, 2006 - 9 a.m. -- Open Meeting


Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Geology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8507, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail geology@dpor.virginia.gov.

GOVERNOR'S EMS ADVISORY BOARD

August 3, 2006 - 3 p.m. -- Open Meeting


The Place at Innsbrook, Glen Allen, Virginia. 

A meeting of the Regulation and Policy Committee to discuss and review the proposed draft regulation packet for the November EMS Advisory Board meeting.

Calendar of Events

Contact: Michael D. Berg, Manager, Regulation and Compliance, Department of Health, 109 Governor St., Suite UB-55, Richmond, VA 23219, telephone (804) 864-7600, FAX (804) 864-7580, toll-free (800) 523-6019, e-mail michael.berg@vdh.virginia.gov.

DEPARTMENT OF HEALTH

† **July 14, 2006 - 9:30 a.m.** -- Open Meeting
Virginia Farm Bureau, 12580 West Creek Parkway, Richmond, Virginia. 

A meeting of the Biosolids Use Regulation Advisory Committee to discuss draft language to amend the Biosolids Use Regulations to provide for permit fees and to hear subcommittee report on access.


Contact: Cal Sawyer, Director, Wastewater Engineering, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7463, FAX (804) 864-7475, e-mail cal.sawyer@vdh.virginia.gov.

August 11, 2006 - 10 a.m. -- Open Meeting

† **September 22, 2006 - 10 a.m.** -- Open Meeting
Department of Health, 109 Governor Street, 5th Floor Conference Room, Richmond, Virginia.

A meeting of the Sewage Handling and Disposal Regulations Advisory Committee to make recommendations to the commissioner regarding sewage handling and disposal policies, procedures and programs of the department.

Contact: Donald Alexander, Division Director, DOSWS, Department of Health, 109 Governor St., 5th Floor, Richmond, VA 23219, telephone (804) 864-7452, FAX (804) 864-7476, e-mail donald.alexander@vdh.virginia.gov.

September 8, 2006 - 10 a.m. -- Open Meeting
Children's Hospital, 2924 Brook Road, Richmond, Virginia. 

A meeting of the Virginia Early Hearing Detection and Intervention Program Advisory Committee to assist the Department of Health in the implementation of the Virginia Early Hearing Detection and Intervention Program. The advisory committee meets four times a year.

Contact: Pat T. Dewey, Program Manager, Department of Health, 109 Governor St., 8th Floor, Richmond, VA 23219, telephone (804) 864-7713, FAX (804) 864-7721, toll-free (866) 493-1090, e-mail pat.dewey@vdh.virginia.gov.


Radiation Advisory Board

† **July 10, 2006 - 10 a.m.** -- Open Meeting
State Emergency Operations Center, 7700 Midlothian Turnpike, Richmond, Virginia.

The annual meeting to discuss radiological issues that may affect the Commonwealth, and to receive a briefing from the Department of Health staff regarding the Nuclear Regulatory Commission's agreement state program and other radiological activities. The advisory board will also tour the new state emergency operations center.

Contact: Les Foldesi, Director, Division of Radiological Health, Department of Health, James Madison Bldg., 109 Governor St., Room 732, Richmond, VA 23219, telephone (804) 864-8151, FAX (804) 864-8155, toll-free (800) 468-0138, e-mail les.foldesi@vdh.virginia.gov.


Sewage Handling and Disposal Appeal Review Board

June 28, 2006 - 10 a.m. -- Open Meeting
August 9, 2006 - 10 a.m. -- Open meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 


A meeting to hear the appeals of health department denials of septic tank permits.

Contact: Susan C. Sherertz, Secretary to the Board, Department of Health, 109 Governor St., Richmond, VA, telephone (804) 864-7464, FAX (804) 864-7475, e-mail susan.sherertz@vdh.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS

July 12, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A regular meeting. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Hearing Aid Specialists, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY , e-mail hearingaidspec@dpor.virginia.gov.

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† **July 10, 2006 - 3 p.m.** -- Open Meeting
Southern Virginia Higher Education Center, South Boston, Virginia.

An informal meeting. No actions will be taken.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N. 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeanrung@schev.edu.

July 11, 2006 - 11 a.m. -- Open Meeting
Southern Virginia Higher Education Center, South Boston, Virginia.

Committee meetings begin at 8:30 a.m. Agenda materials will be available on the website approximately one week

prior to the meeting at www.schev.edu. A public comment period will be allocated on the meeting agenda. To be scheduled, those interested in making public comment should contact the person listed below no later than 5 p.m. three business days prior to the meeting date. At the time of the request, the speaker's name, address and topic must be provided. Each speaker will be given up to three minutes to address SCHEV. Speakers are asked to submit a written copy of their remarks at the time of comment.

Contact: Lee Ann Rung, State Council of Higher Education for Virginia, 101 N 14th St., Richmond, VA 23219, telephone (804) 225-2602, FAX (804) 371-7911, e-mail leeannrung@schev.edu.

VIRGINIA COUNCIL ON HUMAN RESOURCES


July 20, 2006 - 9:30 a.m. -- Open Meeting
† September 21, 2006 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, PDS 4, Richmond, Virginia.

A quarterly meeting.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, James Monroe Bldg., 101 N. 14th St., 13th Floor, Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-2505, e-mail charles.reed@dhrm.virginia.gov.

VIRGINIA INFORMATION TECHNOLOGIES AGENCY


Information Technology Investment Board

† July 19, 2006 - 3:30 p.m. -- Open Meeting
VITA Operations Center, 110 South 7th Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

Meetings of the following committees:

- 9 a.m. - Finance and Audit - 3rd Floor
- 11 a.m. - IT Infrastructure - Auditorium
- 1:30 p.m. - Executive Evaluation and Governance - 3rd Floor
- 3:30 p.m. - Commonwealth IT Solutions - Auditorium


Contact: Marcella Williamson, ITIB Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5988, e-mail marcella.williamson@vita.virginia.gov.

† July 20, 2006 - 9 a.m. -- Open Meeting
VITA Operations Center, 110 South 7th Street, Auditorium, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A full board meeting.

Contact: Marcella Williamson, ITIB Executive Director, Virginia Information Technologies Agency, 110 S. 7th St., 3rd Floor, Richmond, VA 23219, telephone (804) 371-5988, e-mail marcella.williamson@vita.virginia.gov.


Wireless E-911 Services Board

July 12, 2006 - 10 a.m. -- Open Meeting
† September 13, 2006 - 10 a.m. -- Open Meeting
Richmond Plaza Building, 110 South 7th Street, 4th Floor Auditorium, Richmond, Virginia. 

A regular board meeting.

Contact: Steve Marzolf, Public Safety Communications Coordinator, Virginia Information Technologies Agency, 411 E. Franklin St., 5th Floor, Suite 500, Richmond, VA 23219, telephone (804) 371-0015, FAX (804) 371-2277, toll-free (866) 482-3911, e-mail steve.marzolf@vita.virginia.gov.


INNOVATIVE TECHNOLOGY AUTHORITY

July 26, 2006 - 1 p.m. -- Open Meeting
Center for Innovative Technology, 2214 Rock Hill Road, 7th Floor, Fairfax Room, Herndon, Virginia. 

A meeting to elect officers.

Contact: Sharon Kozar, Executive Assistant, Innovative Technology Authority, 2214 Rock Hill Rd., Herndon, VA 20170, telephone (703) 689-3000, e-mail skozar@cit.org.

JAMESTOWN-YORKTOWN FOUNDATION

July 12, 2006 - Noon -- Open Meeting
September 6, 2006 - 2 p.m. -- Open Meeting
Richmond, Virginia. (call for specific location)  (Interpreter for the deaf provided upon request)

A regular meeting of the Executive Committee of the Jamestown 2007 Steering Committee.

Contact: Judith Leonard, Administrative Office Manager, Jamestown-Yorktown Foundation, 410 West Francis Street, Williamsburg, VA 23185, telephone (757) 253-4253, FAX (757) 253-4950, e-mail judith.leonard@jyf.virginia.gov.

STATE BOARD OF JUVENILE JUSTICE


† September 13, 2006 - 9 a.m. -- Open Meeting
Virginia Wilderness Institute, Grundy, Virginia.

Meeting details will be provided closer to the meeting date.

Contact: Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 E. Franklin St., 4th Floor, Richmond, VA 23219, telephone (804) 371-0743, FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

† September 21, 2006 - 10 a.m. -- Open Meeting
Confederate Hills Recreation Building, 302 Lee Avenue, Highland Springs, Virginia. 

A regular business meeting.

Calendar of Events

Contact: Beverley Donati, Program Director, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-2382, FAX (804) 786-8418, (804) 786-2376/TTY ☎, e-mail bgd@doli.state.va.us.

COMMISSION ON LOCAL GOVERNMENT

July 10, 2006 - 10 a.m. -- Public Hearing
The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ♿

A public hearing to receive comment on the Governor's program by which executive branch agencies assess the impact on local governments of the mandates they administer. A copy of the current program is available at <http://www.dhcd.virginia.gov/CD/CLG/PDFs/em1-98.pdf> or by calling the contact below.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 371-7089/TTY ☎, e-mail ted.mccormack@dhcd.virginia.gov.

July 10, 2006 - 11 a.m. -- Open Meeting
The Jackson Center, 501 North Second Street, First Floor Board Room, Richmond, Virginia. ♿

A regular meeting to consider matters as may be presented.

Contact: Ted McCormack, Associate Director, Commission on Local Government, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 786-6508, FAX (804) 371-7090, (804) 371-089/TTY ☎, e-mail ted.mccormack@dhcd.virginia.gov.

BOARD OF LONG-TERM CARE ADMINISTRATORS

July 11, 2006 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ♿

A meeting to discuss general business matters. There will be a 15-minute public comment period at the beginning of the meeting.

Contact: Sandra Reen, Executive Director, Board of Long-Term Care Administrators, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail sandra.reen@dhp.virginia.gov.

VIRGINIA MANUFACTURED HOUSING BOARD

† **July 27, 2006 - 1 p.m.** -- Open Meeting
Kingsmill, 1010 Kingsmill Road, Williamsburg, Virginia. ♿

A regular meeting to carry out duties under the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

Contact: Curtis Mclver, State Building Code Administrator, Virginia Manufactured Housing Board, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone (804)

371-7161, FAX (804) 371-7092, (804) 371-7089/TTY ☎, e-mail curtis.mclver@dhcd.virginia.gov.

MARINE RESOURCES COMMISSION

June 27, 2006 - 9:30 a.m. -- Open Meeting
† **July 25, 2006 - 9:30 a.m.** -- Open Meeting
August 22, 2006 - 9:30 a.m. -- Open Meeting
† **September 26, 2006 - 9:30 a.m.** -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. ♿ (Interpreter for the deaf provided upon request)

A monthly commission meeting.

Contact: Jane McCroskey, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., 3rd Floor, Newport News, VA 23607, telephone (757) 247-2215, FAX (757) 247-8101, toll-free (800) 541-4646, (757) 247-2292/TTY ☎, e-mail jane.mccroskey@mrc.virginia.gov.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 12, 2006 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor Conference Room, Richmond, Virginia. ♿

A quarterly meeting.

Contact: Nancy Malczewski, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8096, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail nancy.malczewski@dmas.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

June 26, 2006 - 9 a.m. -- CANCELED
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia. ♿

The meeting of the Pharmacy and Therapeutics Committee has been canceled.


Contact: Katina Goodwyn, Pharmacy Contract Manager, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-0428, FAX (804) 786-0973, (800) 343-0634/TTY ☎, e-mail pdlinput@dmas.virginia.gov.

July 28, 2006 -- Public comments may be submitted until this date.


Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled **12 VAC 30-141, Family Access to Medical Insurance Security**. The purpose of the proposed action is to provide FAMIS medical coverage for a larger class of pregnant women.


Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Contact: Linda Nablo, Maternal and Child Health Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-4212, FAX (804) 786-1680 or e-mail linda.nablo@dmas.virginia.gov.


August 16, 2006 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 

A meeting of the Medicaid Transportation Advisory Committee to discuss Medicaid transportation issues with the committee and the community.

Contact: Bob Knox, Transportation Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854, FAX (804) 786-6035, (800) 343-0634/TTY , e-mail robert.knox@dmas.virginia.gov.

August 17, 2006 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. 


A meeting of the Drug Utilization Review Board to discuss Medicaid pharmacy issues related to this committee.


Contact: Rachel Cain, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2873, FAX (804) 786-5799, (800) 343-0634/TTY , e-mail rachel.cain@dmas.virginia.gov.

BOARD OF MEDICINE


July 5, 2006 - 9 a.m. -- Open Meeting
† **July 12, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia.


A special conference committee will convene informal conferences to inquire into allegations that certain practitioners of medicine or other healing arts may have violated certain laws and regulations governing the practice of medicine. Further, the committee may review cases with board staff for case disposition, including consideration of consent orders for settlement. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Renee S. Dixon, Discipline Case Manager, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-7009, FAX (804) 662-9517, (804) 662-7197/TTY , e-mail renee.dixon@dhp.virginia.gov.


August 11, 2006 - 8 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A meeting of the Executive Committee to consider regulatory and disciplinary matters as may be presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.


Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.

† **September 22, 2006 - 8:30 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room, Richmond, Virginia. 

A meeting of the Legislative Committee to consider regulatory matters as presented on the agenda. Public comment on agenda items will be received at the beginning of the meeting.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail william.harp@dhp.virginia.gov.


DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

June 28, 2006 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Virginia Mental Health Planning Council to review the MHBG plan, review the MHBG implementation report, develop a plan for 2006 issues, and monitor and evaluate mental health programs.

Contact: Will Ferriss, LCSW, Director, Planning and Evaluation, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, 1220 Bank St., Richmond, VA 23218, telephone (804) 371-0363, FAX (804) 371-0091, e-mail will.ferriss@co.dmhmrzas.virginia.gov.

Interagency Civil Admissions Advisory Council


† **July 13, 2006 - 1:30 p.m.** -- Open Meeting
VACSB, 10128-B West Broad Street, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to review recommendations and progress on recommendations from last fiscal year and to identify this year's goals and objectives.

Contact: Jane McDonald, Community Support Specialist, Office of Mental Health, Department of Mental Health, Mental Retardation and Substance Abuse Services, PO Box 1797, Richmond, VA 23218-1797, telephone (804) 371-8950, FAX (804) 786-1587, e-mail jamcconald@co.dmhmrzas.virginia.gov.

Calendar of Events


STATE MILK COMMISSION

† **September 13, 2006 - 10:45 a.m.** -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2054, Charlottesville, Virginia. 

A regular meeting to consider industry issues, distributor licensing, base transfers and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify Edward C. Wilson at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 102 Governor St., Room 205, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail edward.wilson@vdacs.virginia.gov.

MOTOR VEHICLE DEALER BOARD

† **July 10, 2006 - 8:30 a.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


Committees will meet as follows:

Dealer Practices Committee - 8:30 a.m.
Licensing Committee - Immediately following Dealer Practices
Advertising Committee - 9:30 a.m. or immediately after Licensing, whichever is later
Transaction Recovery Fund Committee - Immediately following Advertising
Franchise Law Committee - To be scheduled as needed.
Full board meeting - 10 a.m. or five to 45 minutes following Transaction Recovery Fund

NOTE: Meetings may begin later, but not earlier than scheduled. Meeting end times are approximate. Any person who needs any accommodation in order to participate in the meeting should contact the board at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Alice R. Weedon, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100, FAX (804) 367-1053, toll-free (877) 270-0203, e-mail dboard@mvdv.virginia.gov.

FOUNDATION FOR VIRGINIA'S NATURAL RESOURCES

July 11, 2006 - 9 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Board Room, Charlottesville, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting.


Contact: Brenda Taylor, Administrative Staff Assistant, Department of Forestry, 900 Natural Resources Dr., Suite


800, Charlottesville, VA 22903, telephone (434) 977-6555, FAX (434) 977-7749, e-mail brenda.taylor@dof.virginia.gov.

BOARD OF NURSING


June 27, 2006 - 9 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. 

A Special Conference Committee comprised of two or three members of the Virginia Board of Nursing or agency subordinate will conduct informal conferences with licensees and certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.


June 30, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia. 

A meeting of the Medication Aide Curriculum Development Subcommittee to continue development of the curriculum for medication aide programs.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.virginia.gov.

† **June 30, 2006 - 1 p.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 3, Richmond, Virginia.

A meeting of the Medication Aide Taskforce to discuss medication aide for child day care centers.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail jay.douglas@dhp.virginia.gov.

July 17, 2006 - 9 a.m. -- Open Meeting


July 19, 2006 - 9 a.m. -- Open Meeting

July 20, 2006 - 9 a.m. -- Open Meeting


† **September 18, 2006 - 9 a.m.** -- Open Meeting

† **September 20, 2006 - 9 a.m.** -- Open Meeting

† **September 21, 2006 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees and/or certificate holders. Public comment will not be received.

Contact: Jay P. Douglas, R.N., M.S.M., C.S.A.C., Executive Director, Board of Nursing, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.virginia.gov.

July 18, 2006 - 9 a.m. -- Open Meeting

† **September 19, 2006 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎

A meeting to conduct general business including receipt of committee reports and consideration of regulatory action and discipline case decisions as presented on the agenda. Public comment will be received at 11 a.m.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.virginia.gov.

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† **July 18, 2006 - 11:30 a.m.** -- Public Hearing

Department of Health Professions, 6603 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to adopt regulations entitled **18 VAC 90-60, Regulations Governing Registration of Medication Aides**. The purpose of the proposed action is to establish criteria for approval of training programs and for the registration of medication aides in assisted living facilities.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Public comments may be submitted until August 25, 2006, to Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.virginia.gov.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.virginia.gov.

JOINT BOARDS OF NURSING AND MEDICINE

August 23, 2006 - 9 a.m. -- Open Meeting

Department of Health Professions, 6603 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A regular meeting.

Contact: Jay P. Douglas, R.N., Executive Director, Board of Nursing, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY ☎, e-mail jay.douglas@dhp.virginia.gov.

BOARD FOR OPTICIANS

August 18, 2006 - 9:30 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A general business meeting including consideration of regulatory issues as may be presented on the agenda. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: William H. Ferguson, II, Executive Director, Board for Opticians, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-6295, (804) 367-9753/TTY ☎, e-mail opticians@dpor.virginia.gov.

BOARD OF OPTOMETRY

† **July 12, 2006 - 2 p.m.** -- Open Meeting

Alcoa Building, 6603 West Broad Street, 5th Floor, Room 4, Richmond, Virginia. ☎

A meeting of the Continuing Education Committee to discuss developments in the Association of Regulatory Boards of Optometry's OETracker Program. The committee will consider recommendations regarding Virginia's participation in its continuing education monitoring service. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9910, FAX (804) 662-7098, (804) 662-7197/TTY ☎, e-mail elizabeth.carter@dhp.virginia.gov.

VIRGINIA OUTDOORS FOUNDATION

† **September 20, 2006 - 1 p.m.** -- Open Meeting

† **September 21, 2006 - 9 a.m.** -- Open Meeting


Location to be announced; Charlottesville, Virginia area.

A meeting for policy and easement consideration. Public comment will be received.

Contact: Trisha Cleary, Administrative Assistant, Department of Conservation and Recreation, 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 225-2147, FAX (804) 371-4810, e-mail tcleary@vofonline.org.

Calendar of Events

BOARD OF PHARMACY

† **June 27, 2006 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia. 

A meeting of the Special Conference Committee to discuss disciplinary matters. Public comments will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313.


† **August 25, 2006** - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled **18 VAC 110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action will eliminate the requirement of an alarm system for alternative sites for delivery of dispensed prescriptions provided the prescriptions are held in a locked room or device with access limited to the practitioner or responsible party listed on an application for controlled substance registration or his designee.


Statutory Authority: Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6603 W. Broad St., 5th Floor, Richmond, VA 23230, telephone (804) 662-9911, FAX (804) 662-9313 or e-mail elizabeth.russell@dhp.virginia.gov.


POLYGRAPH EXAMINERS ADVISORY BOARD


† **September 21, 2006 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Public comment will be heard at the beginning of the meeting. Person desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Kevin Hoeft, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785, FAX (804) 367-0674, (804) 367-9753/TTY , e-mail kevin.hoeft@dpor.virginia.gov.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **June 28, 2006 - 10 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

† **June 30, 2006 - 10 a.m.** -- Public Hearing
Arlington County, #1 Courthouse Plaza, 2100 Clarendon Boulevard, Board Room 307, Arlington, Virginia. 

† **July 11, 2006 - 10 a.m.** -- Public Hearing
City of Hampton Council Chambers, 22 Lincoln Street, 8th Floor, Hampton, Virginia. 

† **July 13, 2006 - 10 a.m.** -- Public Hearing
Roanoke City Council Chambers, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., 4th Floor, Roanoke, Virginia. 


A public hearing to study the possible regulation of the auto body repair industry.

Contact: Mark N. Courtney, Executive Director, Board for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, e-mail mark.courtney@dpor.virginia.gov.


BOARD OF PSYCHOLOGY

July 11, 2006 - 9:30 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia. 


A meeting to include reports from standing committees and any regulatory and disciplinary matters as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Evelyn B. Brown, Executive Director, Board of Psychology, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9913, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail evelyn.brown@dhp.virginia.gov.


REAL ESTATE APPRAISER BOARD

August 29, 2006 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4 West Conference Room,
Richmond, Virginia. 


A meeting to discuss board business.


Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reappraisers@dpor.virginia.gov.

REAL ESTATE BOARD


† **July 6, 2006 - 9 a.m.** -- Open Meeting
July 12, 2006 - 3:30 p.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Room 453, Richmond,
Virginia. 

Informal fact-finding conferences.


Contact: Christine Martine, Executive Director, Real Estate Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reboard@dpor.virginia.gov.

July 13, 2006 - 9 a.m. -- Open Meeting
† **September 14, 2006 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. 

A meeting to discuss board business.

Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, (804) 367-9753/TTY , e-mail reappraisers@dpor.virginia.gov.


DEPARTMENT OF REHABILITATIVE SERVICES

† **June 28, 2006 - 10 a.m.** -- Open Meeting
Virginia Tech, Torgerson Hall Museum, Board Room,
Blacksburg, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the Assistive Technology Advisory Council to provide oversight and direction to the Virginia Assistive Technology System. Interpreter services should be requested five days prior to the meeting date.

Contact: Kenneth H. Knorr, Jr., Director, Virginia Assistive Technology System, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-9995, toll-free (800) 552-5019, e-mail ken.knorr@drs.virginia.gov.


Commonwealth Neurotrauma Initiative Trust Fund Advisory Board

June 28, 2006 - 10 a.m. -- Open Meeting
Forest Office Park, 1602 Rolling Hills Drive, Ratcliffe Building,
2nd Floor, Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


A quarterly meeting.

Contact: Kristie Chamberlain, CNI Program Administrator, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7154, FAX (804) 661-7663, toll-free (800) 552-5019, e-mail kristie.chamberlain@drs.virginia.gov.

Statewide Rehabilitation Council

August 14, 2006 - 11:30 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms
Dr., Richmond, Virginia. 

A quarterly meeting. Public comment will be received at approximately 11:45 a.m.

Contact: Barbara Tyson, Staff Support, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23229, telephone (804) 662-7010, FAX (804) 662-7644, toll-free (800) 552-5019, (800) 464-9950/TTY , e-mail barbara.tyson@drs.virginia.gov.

VIRGINIA RESEARCH AND TECHNOLOGY ADVISORY COMMISSION


† **September 19, 2006 - 1 p.m.** -- Open Meeting
University of Virginia Research Park, Charlottesville, Virginia.

A quarterly meeting.

Contact: Nancy Vorona, VP Research Investment, Virginia Research and Technology Advisory Commission, 2214 Rock Hill Rd., Suite 600, Herndon, VA 20170, telephone (703) 689-3043, FAX (703) 464-1720, e-mail nvorona@cit.org.

DEPARTMENT OF SOCIAL SERVICES


Family and Children's Trust Fund

† **June 29, 2006 - 9 a.m.** -- Open Meeting
2925 Emerywood Parkway, Richmond, Virginia. 


A regular quarterly business meeting.

Contact: Fran Inge, Executive Director, Department of Social Services, 7 N. 8th St., Richmond, VA 23225, telephone (804) 726-7604, FAX (804) 726-7015, e-mail fran.inge@dss.virginia.gov.

Virginia Commission for National and Community Service

† **July 27, 2006 - 10 a.m.** -- Open Meeting
7 North Eighth Street, Richmond, Virginia. 

A regular business meeting.

Contact: Susan Patton, Executive Assistant, Department of Social Services, 7 N. 8th St., Richmond, VA 23225, telephone (804) 726-7065, FAX (804) 726-7024, toll-free (800) 552-3431, (800) 828-1120/TTY , e-mail susan.c.patton@dss.virginia.gov.

BOARD OF SOCIAL WORK

July 14, 2006 - 10 a.m. -- Open Meeting
Department of Health Professions, 6603 West Broad Street,
5th Floor, Richmond, Virginia.

A regular business meeting.

Calendar of Events

Contact: Evelyn B. Brown, Executive Director, Board of Social Work, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9914, FAX (804) 662-7250, (804) 662-7197/TTY ☎, e-mail evelyn.brown@dhp.virginia.gov.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

July 31, 2006 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting of the Soil Scientists and Wetland Delineators Board to conduct board business. The meeting is open to the public; however, a portion of the board's business may be discussed in closed session. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Executive Director, Board for Professional Soil Scientists and Wetland Professionals, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail soilscientist@dpor.virginia.gov.

DEPARTMENT OF TAXATION

State Land Evaluation Advisory Council

August 1, 2006 - 11 a.m. -- Open Meeting
September 11, 2006 - 11 a.m. -- Open Meeting
2220 West Broad Street, Richmond, Virginia. ♿

A meeting to adopt suggested ranges of value for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020, e-mail keith.mawyer@tax.virginia.gov.

TREASURY BOARD

July 19, 2006 - 9 a.m. -- Open Meeting
August 16, 2006 - 9 a.m. -- Open Meeting
† September 20, 2006 - 9 a.m. -- Open Meeting
101 North 14th Street, 3rd Floor, Richmond, Virginia. ♿

A regular meeting.

Contact: J. Braxton Powell, Treasurer, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, VA 23218, telephone (225) 225-2142, FAX (225) 225-3187, e-mail braxton.powell@trs.virginia.gov.

DEPARTMENT OF THE TREASURY

Virginia College Building Authority

† June 27, 2006 - 11:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. ♿

A meeting to consider applications from institutions of higher education for financing under the VCBA Private College Program.

Contact: Janet Aylor, Public Finance Manager, Department of the Treasury, 101 N. 14th St., 3rd Floor, Richmond, Virginia 23218-1879, telephone (804) 786-2082, FAX (804) 225-3187, e-mail janet.aylor@trs.virginia.gov.

DEPARTMENT OF VETERANS SERVICES

Board of Veterans Services

July 10, 2006 - 11:30 a.m. -- Open Meeting
Virginia War Memorial, 621 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting.

Contact: Rhonda Earman, Special Assistant to Commissioner, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0286, e-mail rhonda.earman@dvs.virginia.gov.

Veterans Services Foundation

July 26, 2006 - 11 a.m. -- Open Meeting
American Legion Department of Virginia, 1708 Commonwealth Avenue, Richmond, Virginia. ♿

A regular meeting. Public comment will be heard at the conclusion of the meeting.

Contact: Roz J. Trent, Director of Communications, Department of Veterans Services, 900 E. Main St., Richmond, VA 23219, telephone (804) 786-0220, FAX (804) 786-0302, e-mail roz.trent@dvs.virginia.gov.

VIRGINIA WASTE MANAGEMENT BOARD

July 20, 2006 - 10 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee assisting the department in the development of amendment 6 to the solid waste management regulations.

Contact: Robert G. Wickline, Virginia Waste Management Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, e-mail rgwickline@deq.virginia.gov.

STATE WATER CONTROL BOARD

† **June 28, 2006 - 7:30 p.m.** -- Public Hearing
Crestwood Elementary School, 7600 Whittington Drive,
Cafeteria, Richmond, Virginia. ♿

A public hearing to receive comments from the public related to a proposed Virginia Water Protection Permit for a commercial development known as The Galleria. The project is located west of Chippenham Parkway, north of Jahnke Road, east of Crestwood subdivision, and south of the Norfolk Southern Railway, in Chesterfield County, Virginia. The permit will allow the applicant to fill wetlands and streams. The proposed activity will affect no more than 3.53 acres of wetlands and 2026 linear feet of stream channel. The activity proposed in the permit will affect Powhite Creek, Long Branch Creek and unnamed tributaries in the James River watershed. An informal question and answer period will be held before the public hearing and will begin at 6:30 p.m. The public comment period closes on July 13, 2006.

Contact: Anthony Cario, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4231, FAX (804) 698-4021, e-mail ajcario@deq.virginia.gov.

June 29, 2006 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia. ♿

A public meeting on the State Water Control Board's notice of intent to amend the aboveground storage tank and pipeline facility financial responsibility requirements. The notice of intent appears in the Virginia Register of Regulations on May 29, 2006. The comment period beings on May 29, 2006, and ends on July 7, 2006.

Contact: Leslie D. Beckwith, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4123, e-mail ldbeckwith@deq.virginia.gov.

July 6, 2006 - 9:30 a.m. -- CANCELED

August 3, 2006 - 9:30 a.m. -- Open Meeting
Department of Environmental Quality, Piedmont Regional
Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the advisory committee established to assist in the development of regulations concerning wastewater reclamation and reuse.

Contact: Valerie Rourke, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4158, e-mail varourke@deq.virginia.gov.

† **July 20, 2006 - 7 p.m.** -- Public Hearing
James City County Government Complex, 101 Mounts Bay
Road, Building F, Board Room, Williamsburg, Virginia. ♿

A public hearing to receive comments on a modification request from the City of Newport News to extend the permit expiration date of and several document submittal dates in the Virginia Water Protection Permit for the King William Reservoir. The public comment period closes on August 4, 2006. An informational session will be held before the public hearing beginning at 6 p.m.

Contact: Ellen Gilinsky, State Water Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4375, FAX (804) 698-4032, e-mail egilinsky@deq.virginia.gov.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

† **September 13, 2006 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. The meeting is open to the public; however, a portion of the board's business may be conducted in closed session. Public comment will be heard at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8595, FAX (804) 367-2475, (804) 367-9753/TTY ♿, e-mail waterwasteoper@dpor.virginia.gov.

INDEPENDENT

STATE LOTTERY BOARD

July 19, 2006 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, 13th Floor,
Richmond, Virginia. ♿

A regular meeting. There will be an opportunity for public comment shortly after the meeting is convened.

Contact: Frank S. Ferguson, Director, Legislative and Regulatory Affairs, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7901, FAX (804) 692-7905, e-mail fferguson@valottery.state.va.us.

VIRGINIA OFFICE FOR PROTECTION AND ADVOCACY

June 28, 2006 - 10 a.m. -- Open Meeting
Virginia Office for Protection and Advocacy, 1910 Byrd
Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the
deaf provided upon request)

A joint meeting of the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council and the Disability Advisory Council (DAC). Public comment by telephone is welcome and will be received at the beginning of the meeting. For information on participating in this conference call or if you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov no later than Monday, June 14, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the

Calendar of Events

public comment period. For further information, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than June 14, 2006.

Contact: Lisa Shehi, Executive Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

July 12, 2006 - 9 a.m. -- Open Meeting

Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A teleconference meeting of the Priorities and Public Awareness Committee. Public comment by telephone is welcome and will be received at the beginning of the meeting. For information on participating in this conference call or if you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov no later than Monday, June 26, 2006. For further information, please contact Ms. Shehi. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than Monday, June 26, 2006.

Contact: Lisa Shehi, Executive Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

July 12, 2006 - 10 a.m. - CANCELED

† **September 13, 2006 - 10 a.m.** -- Open Meeting

Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the Disabilities Advisory Council. This meeting is open to the public. Public comment is welcomed by the council and will be received beginning at 10 a.m. Public comment will also be accepted by telephone. For more information on participating in this conference call or to provide public comment via telephone, or arrange for interpreter services or accommodations call or e-mail Lisa Shehi.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

July 17, 2006 - 10 a.m. -- Open Meeting

Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Finance and Resource Development Committee. Public comment is welcome and will be received beginning at 10 a.m. on July 17, 2006. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa

Shehi at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than June 30, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than June 30, 2006.

Contact: Lisa Shehi, Executive Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

July 19, 2006 - 4 p.m. -- Open Meeting

Virginia Office for Protection and Advocacy, 1910 Byrd Avenue, Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Internal Policy Committee. Public comment is welcome and will be received beginning at 4 p.m. on July 19, 2006. Public comment will also be accepted by telephone. If you wish to provide public comment via telephone, you must call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or via e-mail at lisa.shehi@vopa.virginia.gov no later than July 5, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. If interpreter services or other accommodations are required, please contact Ms. Shehi no later than July 5, 2006.

Contact: Lisa Shehi, Executive Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

August 17, 2006 - 10 a.m. -- Open Meeting

Location to be determined ♿ (Interpreter for the deaf provided upon request)

A meeting of the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council. Public comment is welcome and will be received at the beginning of the meeting. For those needing interpreter services or other accommodations, please contact Lisa Shehi no later than August 3, 2006.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7431, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

Board for Protection and Advocacy

July 20, 2006 - 9 a.m. -- Open Meeting

† **September 26, 2006 - 9 a.m.** -- Open Meeting

Virginia Office for Protection and Advocacy, Byrd Building, 1910 Byrd Avenue, Suite 5, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Governing Board. Public comment is welcomed by the board and will be received beginning at 9 a.m. on July 20, 2006. Public comment will also be accepted by telephone. If you wish to provide public

comment via telephone, call Lisa Shehi at 1-800-552-3962 (Voice/TTY) or e-mail lisa.shehi@vopa.virginia.gov no later than July 6, 2006. Ms. Shehi will take your name and phone number and you will be telephoned during the public comment period. If interpreter services or other accommodations are required, please contact Ms. Shehi, no later than July 6, 2006.

Contact: Lisa Shehi, Administrative Assistant, Virginia Office for Protection and Advocacy, 1910 Byrd Ave., Suite 5, Richmond, VA 23230, telephone (804) 225-2042, FAX (804) 662-7413, toll-free (800) 552-3962, (804) 225-2042/TTY ☎, e-mail lisa.shehi@vopa.virginia.gov.

VIRGINIA RETIREMENT SYSTEM

September 12, 2006 - 9 a.m. -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia. ♿

A regular meeting of the Optional Retirement Plan for Higher Education Committee. No public comment will be received at the meeting.

Contact: Patty Atkins-Smith, Legislative Liaison and Policy Analyst, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3123, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail psmith@varetire.org.

† **September 13, 2006 - 1:30 p.m.** -- Open Meeting
Virginia Retirement System, 1200 East Main Street, Richmond, Virginia.

Meetings of the following committees:

1:30 p.m. - Benefits and Actuarial

3 p.m. - Audit and Compliance

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

† **September 14, 2006 - 9 a.m.** -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Investment Advisory Committee. No public comment will be received at the meeting.

Contact: Linda Ritchey, Executive Assistant, Virginia Retirement System, 1111 E. Main St., Richmond, VA 23219, telephone (804) 697-6673, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lritchey@varetire.org.

† **September 14, 2006 - 1 p.m.** -- Open Meeting
Virginia Retirement System, 1111 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Trustees. No public comment will be received at the meeting.

Contact: LaShaunda King, Executive Assistant, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219,

telephone (804) 344-3124, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail lking@varetire.org.

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† **July 10, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia. ♿

A meeting on the Virginia Retirement System (VRS) Semi-Annual Investment Report; the Quadrennial Actuarial Audit of VRS (Mercer Human Resource Consulting); and the VRS Status Report: VRS Director and VRS CIO.

Contact: Patricia Bishop, Principal Legislative Analyst, Joint Legislative Audit and Review Commission, General Assembly Bldg., 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258, FAX (804) 371-0101, e-mail tbishop@leg.state.va.us.

VIRGINIA CODE COMMISSION

July 19, 2006 - 10 a.m. -- Open Meeting
August 23, 2006 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ♿

† **September 20, 2006 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Senate Leadership Room, Richmond, Virginia. ♿

A regularly scheduled meeting.

Contact: Jane D. Chaffin, Registrar of Regulations, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0624, e-mail jchaffin@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 27

- Air Pollution Control Board, State
 - Small Business Environmental Compliance Advisory Board
- Contractors, Board for
- Funeral Directors and Embalmers, Board of
- Marine Resources Commission
- Nursing, Board of
- † Pharmacy, Board of
- † Treasury, Department of the
 - Virginia College Building Authority

June 28

- † Rehabilitative Services, Department of
 - Assistive Technology Advisory Council
- Education, Board of
- Emergency Planning Committee, Local - Winchester

Calendar of Events

Health, Department of
- Sewage Handling and Disposal Appeal Review Board
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Protection and Advocacy, Virginia Office for
† Rehabilitative Services, Department of
- Assistive Technology Advisory Council
- Commonwealth Neurotrauma Initiative Trust Fund
Advisory Board

June 29

† Barbers and Cosmetology, Board for
† Conservation and Recreation, Department of
Contractors, Board for
† Social Services, Department of
- Family and Children's Trust Fund
Water Control Board, State

June 30

Nursing, Board of
† Professional and Occupational Regulation, Board for

July 5

Medicine, Board of

July 6

Auctioneers Board
† Contractors, Board for
† Real Estate Board

July 7

Art and Architectural Review Board
Counseling, Board of
Dentistry, Board of

July 10

Alcoholic Beverage Control Board
† Audit and Review Commission, Joint Legislative
† Health, Department of
- Radiation Advisory Board
† Higher Education for Virginia, State Council of
Local Government, Commission on
† Motor Vehicle Dealer Board
Veterans Services, Department of
- Board of Veterans Services

July 11

Blind and Vision Impaired, Board for
Child Fatality Review Team, State
Higher Education for Virginia, State Council of
Long-Term Care Administrators, Board of
Natural Resources, Foundation for Virginia's
† Professional and Occupational Regulation, Board for
Psychology, Board of

July 12

Aging, Department for the
Hearing Aid Specialists, Board for
Information Technologies Agency, Virginia
- E-911 Wireless Services Board
Jamestown-Yorktown Foundation
† Medicine, Board of
† Optometry, Board of
Protection and Advocacy, Virginia Office for
Real Estate Board

July 13

Conservation and Recreation, Department of
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
† Professional and Occupational Regulation, Board for
Real Estate Board

July 14

† Health, Department of
Social Work, Board of

July 17

Alcoholic Beverage Control Board
† Environmental Quality, Department of
Nursing, Board of
Protection and Advocacy, Virginia Office for

July 18

† Agriculture and Consumer Services, Department of
- Virginia Peanut Board
Corrections, Board of
† Environmental Quality, Department of
† Game and Inland Fisheries, Department of
Nursing, Board of

July 19

Agriculture and Consumer Services, Department of
- Virginia Small Grains Board
Code Commission, Virginia
Corrections, Board of
Geology, Board for
† Information Technologies Agency, Virginia
Lottery Board, State
Nursing, Board of
Protection and Advocacy, Virginia Office for
Treasury Board

July 20

Conservation and Recreation, Department of
- Virginia Soil and Water Conservation Board
† Contractors, Board for
Design-Build/Construction Management Review Board
Human Resources, Virginia Council on
† Information Technologies Agency, Virginia
Nursing, Board of
Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy
Waste Management Board, Virginia

July 21

Dentistry, Board of

July 25

Contractors, Board for
† Marine Resources Commission

July 26

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
† Compensation Board
Education, Board of
Innovative Technology Authority
Veterans Services, Department of

July 27

Branch Pilots, Board for
† Manufactured Housing Board
† Social Services, Department of
- Virginia Commission for National and Community
Service

July 28

Branch Pilots, Board for

July 31

Professional Soil Scientists and Wetland Professionals,
Board for

August 1

Taxation, Department of
- State Land Evaluation Advisory Council

August 2

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

August 3

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Governor's EMS Advisory Board
Water Control Board, State

August 4

Art and Architectural Review Board

August 7

Alcoholic Beverage Control Board
Barbers and Cosmetology, Board for

August 9

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Health, Department of
- Sewage Handling and Disposal Appeal Review Board

August 10

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for
Conservation and Recreation, Department of

August 11

Health, Department of
Medicine, Board of

August 14

Rehabilitative Services, Department of

August 15

Chesapeake Bay Local Assistance Board

August 16

Asbestos, Lead, and Home Inspectors, Virginia Board for
Medical Assistance Services, Department of
Treasury Board

August 17

Design-Build/Construction Management Review Board
Medical Assistance Services, Department of
Protection and Advocacy, Virginia Office for

August 18

Dentistry, Board of
Opticians, Board for

August 21

Alcoholic Beverage Control Board

August 22

Contractors, Board for
Marine Resources Commission

August 23

Code Commission, Virginia
Nursing and Medicine, Joint Boards of

August 29

Real Estate Appraiser Board

September 1

Art and Architectural Review Board

September 5

Alcoholic Beverage Control Board

September 6

Jamestown-Yorktown Foundation

September 7

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers and Landscape Architects,
Board for

September 8

Dentistry, Board of
Health, Department of

September 11

Taxation, Department of
- State Land Evaluation Advisory Council

September 12

Charitable Gaming Board
Child Fatality Review Team, State
Medical Assistance Services, Board of
Retirement System, Virginia

September 13

† Information Technologies Agency, Virginia
- E911 Wireless Service Board
† Juvenile Justice, State Board of
† Milk Commission, State
† Protection and Advocacy, Virginia Office for
- Disabilities Advisory Council
† Retirement System, Virginia
† Waterworks and Wastewater Works Operators, Board for

September 14

† Conservation and Recreation, Department of
† Dentistry, Board of
† Real Estate Board
† Retirement System, Virginia

September 15

† Contractors, Board for
† Dentistry, Board of

September 18

† Alcoholic Beverage Control Board
† Chesapeake Bay Local Assistance Board
† Nursing, Board of

September 19

† Corrections, Board of
† Nursing, Board of
† Research and Technology Advisory Commission, Virginia

September 20

† Code Commission, Virginia
† Corrections, Board of
† Nursing, Board of
† Outdoors Foundation, Virginia
† Treasury Board

September 21

Conservation and Recreation, Department of
- Virginia Soil and Water Board
† Design-Build/Construction Management Review Board
† Human Resources, Virginia Council on
† Labor and Industry, Department of
† Nursing, Board of
- Virginia Apprenticeship Council
† Outdoors Foundation, Virginia
† Polygraph Examiners Advisory Board

Calendar of Events

September 22

- † Health, Department of
- † Medicine, Board of

September 26

- † Contractors, Board for
- † Marine Resources Commission
- † Protection and Advocacy, Virginia Office for
- Board for Protection and Advocacy

PUBLIC HEARINGS

June 28

- † Professional and Occupational Regulation, Board for

- † Water Control Board, State

July 10

- Local Government, Commission on

July 18

- † Funeral Directors and Embalmers, Board of
- † Nursing, Board of

July 20

- † Water Control Board, State

July 21

- † Dentistry, Board of