



Virginia Register of Regulations

VOL. 23 ISS. 23

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

JULY 23, 2007

TABLE OF CONTENTS

Register Information Page	3849
Publication Schedule and Deadlines	3850
Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed ..	3851
Petitions for Rulemaking	3865
Notices of Intended Regulatory Action	3866
Regulations	3870
4VAC20-1120. Pertaining to Tilefish and Grouper (Final)	3871
5VAC5-30. Uniform Commercial Code Filing Rules (Final).....	3871
6VAC40-50. Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material (Notice of Extension of Emergency Regulation)	3876
8VAC20-160. Regulations Governing Secondary School Transcripts (Final)	3876
9VAC25-720. Water Quality Management Planning Regulation - Skyline Swannanoa (Fast-Track)	3879
9VAC25-720. Water Quality Management Planning Regulation - North River (Fast-Track).....	3886
9VAC25-720. Water Quality Management Planning Regulation - Middletown(Fast-Track)	3893
9VAC25-720. Water Quality Management Planning Regulation - Danville City - Northside (Fast-Track)	3900
12VAC5-125. Regulations for Bedding and Upholstered Furniture Inspection Program (Final)	3904
13VAC5-31. Virginia Amusement Device Regulations (Proposed).....	3919
13VAC5-91. Virginia Industrialized Building Safety Regulations (Proposed)	3930
16VAC15-21. Maximum Garnishment Amounts (Final)	3933
18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (Final).....	3933
18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (Final).....	3934
18VAC150-10. Public Participation Guidelines (Fast-Track)	3935
21VAC5-10. General Administration - Securities Act (Final).....	3939
21VAC5-20. Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renew (Final)....	3939
21VAC5-80. Investment Advisors (Final)	3939
21VAC5-110. Retail Franchising Act Rules (Final)	3957
22VAC40-35. Virginia Independence Program (Final)	3962
Forms	3968
General Notices/Errata	3971

THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date

specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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

Members of the Virginia Code Commission: **R. Steven Landes**, Chairman; **John S. Edwards**, Vice Chairman; **Ryan T. McDougle**; **Robert Hurt**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **James F. Almand**; **S. Bernard Goodwyn**.

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

PUBLICATION SCHEDULE AND DEADLINES

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

July 2007 through May 2008

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
INDEX 3 Volume 23		July 2007
23:23	July 2, 2007 (Monday)	July 23, 2007
23:24	July 18, 2007	August 6, 2007
23:25	August 1, 2007	August 20, 2007
23:26	August 15, 2007	September 3, 2007
FINAL INDEX - Volume 23		October 2007
24:1	August 29, 2007	September 17, 2007
24:2	September 12, 2007	October 1, 2007
24:3	September 26, 2007	October 15, 2007
24:4	October 10, 2007	October 29, 2007
24:5	October 24, 2007	November 12, 2007
24:6	November 7, 2007	November 26, 2007
24:7	November 20, 2007 (Tuesday)	December 10, 2007
INDEX 1 Volume 24		January 2008
24:8	December 5, 2007	December 24, 2008
24:9	December 19, 2007	January 7, 2008
24:10	January 2, 2008	January 21, 2008
24:11	January 16, 2008	February 4, 2008
24:12	January 30, 2008	February 18, 2008
24:13	February 13, 2008	March 3, 2008
24:14	February 27, 2008	March 17, 2008
INDEX 1 Volume 24		April 2008
24:15	March 12, 2008	March 31, 2008
24:16	March 26, 2008	April 14, 2008
24:17	April 9, 2008	April 28, 2008
24:18	April 23, 2008	May 12, 2008

*Filing deadlines are Wednesdays unless otherwise specified.

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

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Fall 2006 VAC Supplement includes final regulations published through *Virginia Register* Volume 22, Issue 22, dated July 10, 2006). 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 5-195 (Form)	Added	23:15 VA.R. 2512	--
2 VAC 5-330-30	Amended	23:20 VA.R. 3122	7/12/07
2 VAC 5-490-10 through 2 VAC 5-490-90	Amended	23:20 VA.R. 3123-3155	5/23/07
2 VAC 5-490-15	Added	23:20 VA.R. 3130	5/23/07
2 VAC 5-490-25	Added	23:20 VA.R. 3131	5/23/07
2 VAC 5-490-31 through 2 VAC 5-490-39.6	Added	23:20 VA.R. 3132-3140	5/23/07
2 VAC 5-490-73	Added	23:20 VA.R. 3154	5/23/07
2 VAC 5-490-75	Added	23:20 VA.R. 3155	5/23/07
2 VAC 5-490-103	Added	23:20 VA.R. 3155	5/23/07
2 VAC 5-490-105	Added	23:20 VA.R. 3156	5/23/07
2 VAC 5-490-110	Amended	23:20 VA.R. 3156	5/23/07
2 VAC 5-490-120	Amended	23:20 VA.R. 3157	5/23/07
2 VAC 5-490-130	Repealed	23:20 VA.R. 3157	5/23/07
2 VAC 5-490-131 through 2 VAC 5-490-138	Added	23:20 VA.R. 3157-3162	5/23/07
2 VAC 5-490-140	Amended	23:20 VA.R. 3162	5/23/07
2 VAC 5-620-10 through 2 VAC 5-620-100	Added	23:19 VA.R. 2981-2985	7/1/07
Title 3. Alcoholic Beverages			
3 VAC 5-10-40	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-50	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-60	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-130	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-150	Amended	23:13 VA.R. 2117	5/19/07
3 VAC 5-10-230	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-360	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-400	Amended	23:13 VA.R. 2118	5/19/07
3 VAC 5-10-480	Amended	23:13 VA.R. 2129	5/19/07
3 VAC 5-40-20	Amended	23:13 VA.R. 2133	5/19/07
3 VAC 5-40-50	Amended	23:13 VA.R. 2134	5/19/07
3 VAC 5-60-20	Amended	23:13 VA.R. 2137	5/19/07
3 VAC 5-60-40	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-80	Amended	23:13 VA.R. 2138	5/19/07
3 VAC 5-60-100	Added	23:13 VA.R. 2139	5/19/07
3 VAC 5-70-100	Amended	23:13 VA.R. 2142	5/19/07
3 VAC 5-70-150	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-160	Amended	23:13 VA.R. 2143	5/19/07
3 VAC 5-70-230	Added	23:13 VA.R. 2143	5/19/07
Title 4. Conservation and Natural Resources			
4 VAC 20-70-100	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-200-10	Amended	23:11 VA.R. 1659	2/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-200-20	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-30	Amended	23:11 VA.R. 1659	2/1/07
4 VAC 20-200-40	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-200-50	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-270-30 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-30	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-270-40 emer	Amended	23:14 VA.R. 2276	3/1/07-3/30/07
4 VAC 20-270-40	Amended	23:17 VA.R. 2737	3/30/07
4 VAC 20-300-20 emer	Amended	23:14 VA.R. 2277	3/1/07-3/30/07
4 VAC 20-300-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-310-55	Added	23:15 VA.R. 2481	3/1/07
4 VAC 20-370-10 through 4 VAC 20-370-30	Amended	23:19 VA.R. 2986	5/1/07
4 VAC 20-380-50	Amended	23:21 VA.R. 3446	10/1/07
4 VAC 20-380-60	Amended	23:21 VA.R. 3447	10/1/07
4 VAC 20-430-20	Amended	23:17 VA.R. 2738	3/30/07
4 VAC 20-430-45	Added	23:17 VA.R. 2738	3/30/07
4 VAC 20-450-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-490-42	Amended	23:10 VA.R. 1540	12/21/06
4 VAC 20-490-42	Amended	23:19 VA.R. 2986	5/1/07
4 VAC 20-510-10	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-20	Amended	23:12 VA.R. 1958	2/1/07
4 VAC 20-510-33	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-35	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-510-37	Added	23:12 VA.R. 1959	2/1/07
4 VAC 20-530-10 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-20 emer	Amended	23:12 VA.R. 1959	2/1/07-3/1/07
4 VAC 20-530-31 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-31	Added	23:13 VA.R. 2144	2/1/07-3/1/07
4 VAC 20-530-31	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-530-32 emer	Amended	23:12 VA.R. 1960	2/1/07-3/1/07
4 VAC 20-530-32	Added	23:13 VA.R. 2145	2/1/07-3/1/07
4 VAC 20-530-32	Amended	23:15 VA.R. 2482	3/1/07
4 VAC 20-610-30	Amended	23:11 VA.R. 1660	2/1/07
4 VAC 20-610-60	Amended	23:11 VA.R. 1662	2/1/07
4 VAC 20-620-50	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-60	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-620-70	Amended	23:15 VA.R. 2483	3/1/07
4 VAC 20-670-15	Added	23:17 VA.R. 2739	3/30/07
4 VAC 20-670-30	Amended	23:17 VA.R. 2739	3/30/07
4 VAC 20-720-10 emer	Amended	23:19 VA.R. 2987	5/1/07-5/30/07
4 VAC 20-720-10	Amended	23:21 VA.R. 3447	5/23/07
4 VAC 20-720-20 emer	Amended	23:19 VA.R. 2987	5/1/07-5/30/07
4 VAC 20-720-40 emer	Amended	23:10 VA.R. 1540	1/1/07-1/30/07
4 VAC 20-720-50 emer	Amended	23:10 VA.R. 1541	1/1/07-1/30/07
4 VAC 20-720-60 emer	Amended	23:19 VA.R. 2988	5/1/07-5/30/07
4 VAC 20-720-60 through 4 VAC 20-720-110	Amended	23:21 VA.R. 3447-3449	5/23/07
4 VAC 20-720-70 emer	Amended	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-90 emer	Amended	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-105 emer	Added	23:19 VA.R. 2989	5/1/07-5/30/07
4 VAC 20-720-105	Added	23:21 VA.R. 3449	5/23/07
4 VAC 20-720-110 emer	Amended	23:19 VA.R. 2990	5/1/07-5/30/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-752-20	Amended	23:19 VA.R. 2990	5/3/07
4 VAC 20-752-30	Amended	23:19 VA.R. 2991	5/3/07
4 VAC 20-890-20	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-35	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-40	Amended	23:19 VA.R. 2991	7/1/07
4 VAC 20-890-45	Added	23:19 VA.R. 2992	7/1/07
4 VAC 20-900-25	Amended	23:19 VA.R. 2992	7/1/07
4 VAC 20-900-35	Amended	23:19 VA.R. 2993	7/1/07
4 VAC 20-950-40 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-40	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-47	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-47	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-950-48.2 emer	Amended	23:12 VA.R. 1961	2/1/07-3/1/07
4 VAC 20-950-48.2	Amended	23:15 VA.R. 2484	3/1/07
4 VAC 20-950-48	Amended	23:17 VA.R. 2740	3/30/07
4 VAC 20-1090-30	Amended	23:11 VA.R. 1663	2/1/07
4 VAC 20-1110-10 through 4 VAC 20-1110-50	Added	23:19 VA.R. 2994	5/1/07
4 VAC 20-1120-10 through 4 VAC 20-1120-50	Added	23:19 VA.R. 2994-2995	5/1/07
4 VAC 20-1120-20 emer	Amended	23:21 VA.R. 3449	5/29/07-6/28/07
4 VAC 25-20-420	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-50-10 through 4 VAC 25-50-110	Repealed	23:22 VA.R. 3696	8/8/07
4 VAC 25-130 (Forms)	Amended	23:20 VA.R. 3370-3372	--
4 VAC 25-130-700.12	Amended	23:13 VA.R. 2146	4/4/07
4 VAC 25-130-773.21	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.11	Amended	23:13 VA.R. 2147	4/4/07
4 VAC 25-130-775.13	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-777.17	Amended	23:22 VA.R. 3696	8/8/07
4 VAC 25-130-784.20	Amended	23:13 VA.R. 2148	4/4/07
4 VAC 25-130-785.25	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-800.51	Amended	23:13 VA.R. 2149	4/4/07
4 VAC 25-130-816.105	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-816.116	Amended	23:16 VA.R. 2592	5/16/07
4 VAC 25-130-817.11	Amended	23:13 VA.R. 2150	4/4/07
4 VAC 25-130-817.64	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-817.116	Amended	23:16 VA.R. 2594	5/16/07
4 VAC 25-130-817.121	Amended	23:13 VA.R. 2151	4/4/07
4 VAC 25-130-842.15	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.12	Amended	23:13 VA.R. 2153	4/4/07
4 VAC 25-130-843.13	Amended	23:13 VA.R. 2154	4/4/07
4 VAC 25-130-843.15	Amended	23:13 VA.R. 2155	4/4/07
4 VAC 25-130-843.16	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.13	Amended	23:13 VA.R. 2156	4/4/07
4 VAC 25-130-845.15	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.18	Amended	23:13 VA.R. 2158	4/4/07
4 VAC 25-130-845.19	Amended	23:13 VA.R. 2159	4/4/07
4 VAC 25-130-846.14	Amended	23:13 VA.R. 2159	4/4/07
Title 6. Criminal Justice and Corrections			
6 VAC 15-20-10 through 6 VAC 15-20-230	Amended	23:22 VA.R. 3697-3703	8/9/07
Title 8. Education			
8 VAC 20-350-10 through 8 VAC 20-350-660	Repealed	23:12 VA.R. 1962	5/8/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 20-700-10 through 8 VAC 20-700-50	Added	23:10 VA.R. 1541-1543	2/21/07
8 VAC 20-710-10 through 8 VAC 20-710-30	Added	23:10 VA.R. 1543-1544	2/21/07
8 VAC 40-140-10 through 8 VAC 40-140-90	Added	23:22 VA.R. 3704-3706	7/1/07
Title 9. Environment			
9 VAC 5-20-21	Amended	23:21 VA.R. 3456	8/1/07
9 VAC 5-30-15	Added	23:21 VA.R. 3454	8/1/07
9 VAC 5-30-60	Amended	23:21 VA.R. 3454	8/1/07
9 VAC 5-30-65	Amended	23:21 VA.R. 3454	8/1/07
9 VAC 5-30-66	Added	23:21 VA.R. 3455	8/1/07
9 VAC 5-40-7550 through 9 VAC 5-40-7710	Added	23:21 VA.R. 3460-3463	8/1/07
9 VAC 5-50-400	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-50-410	Amended	23:17 VA.R. 2742	6/1/07
9 VAC 5-60-60	Amended	23:17 VA.R. 2747	6/1/07
9 VAC 5-60-90	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-60-100	Amended	23:17 VA.R. 2748	6/1/07
9 VAC 5-140-1010 through 9 VAC 5-140-1060	Added	23:14 VA.R. 2279-2291	4/18/07
9 VAC 5-140-1061	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1062	Added	23:14 VA.R. 2291	*
9 VAC 5-140-1070 through 9 VAC 5-140-1150	Added	23:14 VA.R. 2292-2295	4/18/07
9 VAC 5-140-1200 through 9 VAC 5-140-1240	Added	23:14 VA.R. 2295-2296	4/18/07
9 VAC 5-140-1400 through 9 VAC 5-140-1430	Added	23:14 VA.R. 2296-2302	4/18/07
9 VAC 5-140-1500 through 9 VAC 5-140-1570	Added	23:14 VA.R. 2302-2306	4/18/07
9 VAC 5-140-1600 through 9 VAC 5-140-1620	Added	23:14 VA.R. 2307	4/18/07
9 VAC 5-140-1700 through 9 VAC 5-140-1750	Added	23:14 VA.R. 2307-2312	4/18/07
9 VAC 5-140-1800 through 9 VAC 5-140-1880	Added	23:14 VA.R. 2312-2317	4/18/07
9 VAC 5-140-2060	Added	23:14 VA.R. 2329	4/18/07
9 VAC 5-140-2061	Added	23:14 VA.R. 2331	*
9 VAC 5-140-2062	Added	23:14 VA.R. 2332	*
9 VAC 5-140-2070	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2080	Added	23:14 VA.R. 2333	4/18/07
9 VAC 5-140-2100 through 9 VAC 5-140-2150	Added	23:14 VA.R. 2333-2336	4/18/07
9 VAC 5-140-2200 through 9 VAC 5-140-2240	Added	23:14 VA.R. 2336-2337	4/18/07
9 VAC 5-140-2400 through 9 VAC 5-140-2430	Added	23:14 VA.R. 2337-2342	4/18/07
9 VAC 5-140-2500 through 9 VAC 5-140-2570	Added	23:14 VA.R. 2342-2347	4/18/07
9 VAC 5-140-2600 through 9 VAC 5-140-2620	Added	23:14 VA.R. 2347	4/18/07
9 VAC 5-140-2700 through 9 VAC 5-140-2750	Added	23:14 VA.R. 2347-2353	4/18/07
9 VAC 5-140-2800 through 9 VAC 5-140-2880	Added	23:14 VA.R. 2353-2359	4/18/07
9 VAC 5-140-3010 through 9 VAC 5-140-3060	Added	23:14 VA.R. 2359-2368	4/18/07
9 VAC 5-140-3061	Added	23:14 VA.R. 2370	*
9 VAC 5-140-3062	Added	23:14 VA.R. 2371	*
9 VAC 5-140-3070	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3080	Added	23:14 VA.R. 2371	4/18/07
9 VAC 5-140-3100 through 9 VAC 5-140-3150	Added	23:14 VA.R. 2371-2374	4/18/07
9 VAC 5-140-3200 through 9 VAC 5-140-3240	Added	23:14 VA.R. 2374-2375	4/18/07
9 VAC 5-140-3400 through 9 VAC 5-140-3420	Added	23:14 VA.R. 2375	4/18/07
9 VAC 5-140-3500 through 9 VAC 5-140-3570	Added	23:14 VA.R. 2375-2380	4/18/07
9 VAC 5-140-3600 through 9 VAC 5-140-3620	Added	23:14 VA.R. 2380-2381	4/18/07
9 VAC 5-140-3700 through 9 VAC 5-140-3750	Added	23:14 VA.R. 2381-2386	4/18/07
9 VAC 5-140-3800 through 9 VAC 5-140-3880	Added	23:14 VA.R. 2386-2391	4/18/07

* Effective Date Suspended 23:19

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-140-5010 through 9 VAC 5-140-5750	Added	23:13 VA.R. 2160-2186	4/4/07
9 VAC 5-140-1020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1061	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1130	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1420	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1700	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-1740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2020	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2030	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2040	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2060	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-2740	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3062	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-3840	Erratum	23:16 VA.R. 2673	--
9 VAC 5-140-5020	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5060	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5100	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5150	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5420	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5510	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5540	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5560	Erratum	23:16 VA.R. 2672	--
9 VAC 5-140-5600	Erratum	23:16 VA.R. 2672	--
9 VAC 5-151-10 through 9 VAC 5-151-70	Added	23:17 VA.R. 2755-2764	5/31/07
9 VAC 5-240-10 through 9 VAC 5-240-50	Added	23:16 VA.R. 2595-2596	5/16/07
9 VAC 20-110-90	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-110-110	Amended	23:11 VA.R. 1665	3/21/07
9 VAC 20-200-10 through 9 VAC 20-200-70	Added	23:11 VA.R. 1666-1667	3/21/07
9 VAC 25-71-20	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-50	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-71-70	Amended	23:15 VA.R. 2485	5/2/07
9 VAC 25-210-10	Amended	23:21 VA.R. 3464	7/25/07
9 VAC 25-210-50	Amended	23:21 VA.R. 3468	7/25/07
9 VAC 25-210-60	Amended	23:21 VA.R. 3469	7/25/07
9 VAC 25-210-75	Added	23:21 VA.R. 3473	7/25/07
9 VAC 25-210-80 through 9 VAC 25-210-115	Amended	23:21 VA.R. 3474-3484	7/25/07
9 VAC 25-210-116	Added	23:21 VA.R. 3484	7/25/07
9 VAC 25-210-130	Amended	23:21 VA.R. 3487	7/25/07
9 VAC 25-210-140	Amended	23:21 VA.R. 3488	7/25/07
9 VAC 25-210-170	Amended	23:21 VA.R. 3489	7/25/07
9 VAC 25-210-175	Added	23:21 VA.R. 3489	7/25/07
9 VAC 25-210-180	Amended	23:21 VA.R. 3490	7/25/07
9 VAC 25-210-185	Amended	23:21 VA.R. 3492	7/25/07
9 VAC 25-210-190	Repealed	23:21 VA.R. 3492	7/25/07
9 VAC 25-210-200	Repealed	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-210	Repealed	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-220	Amended	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-230	Amended	23:21 VA.R. 3493	7/25/07
9 VAC 25-210-260	Amended	23:21 VA.R. 3494	7/25/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-720-50	Amended	23:11 VA.R. 1669	3/21/07
9 VAC 25-720-50	Amended	23:15 VA.R. 2486	5/2/07
9 VAC 25-720-60	Amended	23:12 VA.R. 1966	5/21/07
9 VAC 25-720-80	Amended	23:11 VA.R. 1670	3/21/07
9 VAC 25-720-90	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-100	Amended	23:11 VA.R. 1671	3/21/07
9 VAC 25-720-130	Amended	23:15 VA.R. 2487	5/2/07
Title 10. Finance and Financial Institutions			
10 VAC 5-40-50	Added	23:18 VA.R. 2882	5/1/07
10 VAC 5-160-40	Amended	23:13 VA.R. 2187	2/10/07
Title 11. Gaming			
11 VAC 10-20-310	Amended	23:18 VA.R. 2883	5/31/07
11 VAC 10-20-330	Amended	23:18 VA.R. 2884	5/31/07
11 VAC 10-20-340	Amended	23:18 VA.R. 2891	5/31/07
11 VAC 10-100-30	Amended	23:18 VA.R. 2892	5/31/07
11 VAC 10-110-30	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-110-90	Amended	23:18 VA.R. 2893	5/31/07
11 VAC 10-120-80	Amended	23:18 VA.R. 2894	5/31/07
11 VAC 10-130-10	Amended	23:11 VA.R. 1672	1/10/07
11 VAC 10-130-10	Amended	23:18 VA.R. 2894	4/30/07
11 VAC 10-130-60	Amended	23:11 VA.R. 1673	1/10/07
11 VAC 10-140-12	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-15	Added	23:18 VA.R. 2896	5/31/07
11 VAC 10-140-210	Amended	23:18 VA.R. 2896	5/31/07
11 VAC 10-150-12	Added	23:18 VA.R. 2897	5/31/07
11 VAC 10-150-15	Added	23:18 VA.R. 2897	5/31/07
11 VAC 10-180-10	Amended	23:20 VA.R. 3164	5/18/07
11 VAC 10-180-20	Amended	23:20 VA.R. 3164	5/18/07
11 VAC 10-180-60	Amended	23:20 VA.R. 3166	5/18/07
11 VAC 10-180-80	Amended	23:20 VA.R. 3167	5/18/07
Title 12. Health			
12 VAC 5-70-10 through 12 VAC 5-70-50	Repealed	23:13 VA.R. 2187	4/4/07
12 VAC 5-71-10 through 12 VAC 5-71-190	Added	23:13 VA.R. 2188-2195	4/4/07
12 VAC 5-90 (Forms)	Erratum	23:15 VA.R. 2507-2509	--
12 VAC 5-90-10	Amended	23:15 VA.R. 2488	5/2/07
12 VAC 5-90-40	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-80	Amended	23:15 VA.R. 2493	5/2/07
12 VAC 5-90-90	Amended	23:15 VA.R. 2497	5/2/07
12 VAC 5-90-100	Amended	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-103	Added	23:15 VA.R. 2500	5/2/07
12 VAC 5-90-107	Added	23:15 VA.R. 2502	5/2/07
12 VAC 5-90-110	Amended	23:15 VA.R. 2503	5/2/07
12 VAC 5-90-130	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-225	Amended	23:15 VA.R. 2504	5/2/07
12 VAC 5-90-250 through 12 VAC 5-90-280	Amended	23:15 VA.R. 2505-2506	5/2/07
12 VAC 5-90-330	Amended	23:15 VA.R. 2506	5/2/07
12 VAC 5-90-350	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-90-360	Amended	23:15 VA.R. 2507	5/2/07
12 VAC 5-190-10 through 12 VAC 5-190-690	Repealed	23:21 VA.R. 3498	7/25/07
12 VAC 5-191-10 through 12 VAC 5-191-320	Added	23:21 VA.R. 3498-3509	7/25/07
12 VAC 5-371-10	Amended	23:10 VA.R. 1544	3/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-371-20	Repealed	23:10 VA.R. 1546	3/1/07
12 VAC 5-371-30	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-40	Amended	23:10 VA.R. 1547	3/1/07
12 VAC 5-371-50	Repealed	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-60	Amended	23:10 VA.R. 1548	3/1/07
12 VAC 5-371-70 through 12 VAC 5-371-130	Amended	23:10 VA.R. 1548-1551	3/1/07
12 VAC 5-371-150	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-160	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-190	Amended	23:10 VA.R. 1551	3/1/07
12 VAC 5-371-200	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-400	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-371-410	Amended	23:10 VA.R. 1552	3/1/07
12 VAC 5-410-10	Amended	23:10 VA.R. 1554	3/1/07
12 VAC 5-410-30	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-70	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-80	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-100	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-110	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-130	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-140	Amended	23:10 VA.R. 1555	3/1/07
12 VAC 5-410-150	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-180	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-210	Amended	23:10 VA.R. 1556	3/1/07
12 VAC 5-410-220	Amended	23:10 VA.R. 1557	3/1/07
12 VAC 5-410-270	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-442	Amended	23:10 VA.R. 1558	3/1/07
12 VAC 5-410-445	Amended	23:10 VA.R. 1559	3/1/07
12 VAC 5-410-650	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-720	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-760	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1150	Amended	23:10 VA.R. 1560	3/1/07
12 VAC 5-410-1170	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1350	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 5-410-1380	Amended	23:10 VA.R. 1561	3/1/07
12 VAC 30-10-140	Amended	23:16 VA.R. 2653	7/1/07
12 VAC 30-10-560	Amended	23:14 VA.R. 2396	9/1/07
12 VAC 30-20-140	Amended	23:14 VA.R. 2397	9/1/07
12 VAC 30-30-20 emer	Amended	23:20 VA.R. 3169	5/30/07-5/29/08
12 VAC 30-30-60	Added	23:11 VA.R. 1673	3/7/07
12 VAC 30-40-10	Amended	23:11 VA.R. 1674	3/7/07
12 VAC 30-40-20	Amended	23:18 VA.R. 2897	7/1/07
12 VAC 30-40-105 emer	Added	23:20 VA.R. 3170	5/30/07-5/29/08
12 VAC 30-40-280 emer	Amended	23:20 VA.R. 3171	5/30/07-5/29/08
12 VAC 30-40-290	Amended	23:14 VA.R. 2398	9/1/07
12 VAC 30-40-290 emer	Amended	23:20 VA.R. 3172	5/30/07-5/29/08
12 VAC 30-50-20	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-35	Added	23:11 VA.R. 1675	3/7/07
12 VAC 30-50-60	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-75	Added	23:11 VA.R. 1676	3/7/07
12 VAC 30-50-130	Amended	23:21 VA.R. 3518	1/1/08
12 VAC 30-50-141 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-50-151 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08
12 VAC 30-50-181 emer	Added	23:21 VA.R. 3510	7/1/07-6/30/08
12 VAC 30-50-228 emer	Added	23:21 VA.R. 3511	7/1/07-6/30/08
12 VAC 30-50-320	Amended	23:16 VA.R. 2654	7/1/07
12 VAC 30-50-321	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-325	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-328	Added	23:16 VA.R. 2655	7/1/07
12 VAC 30-50-461 emer	Added	23:21 VA.R. 3512	7/1/07-6/30/08
12 VAC 30-50-490	Amended	23:20 VA.R. 3175	7/11/07
12 VAC 30-50-530	Amended	23:11 VA.R. 1676	3/7/07
12 VAC 30-60-250 emer	Added	23:21 VA.R. 3513	7/1/07-6/30/08
12 VAC 30-60-255 emer	Added	23:21 VA.R. 3515	7/1/07-6/30/08
12 VAC 30-70-311	Amended	23:19 VA.R. 3003	7/1/07
12 VAC 30-70-321	Amended	23:19 VA.R. 3003	7/1/07
12 VAC 30-70-331	Amended	23:20 VA.R. 3225	8/25/07
12 VAC 30-70-341	Amended	23:19 VA.R. 3003	7/1/07
12 VAC 30-70-391	Amended	23:19 VA.R. 3004	7/1/07
12 VAC 30-80-30	Amended	23:20 VA.R. 3232	7/11/07
12 VAC 30-80-32 emer	Added	23:21 VA.R. 3516	7/1/07-6/30/08
12 VAC 30-80-95	Added	23:21 VA.R. 3520	1/1/08
12 VAC 30-80-190	Amended	23:19 VA.R. 3004	7/1/07
12 VAC 30-80-190	Amended	23:20 VA.R. 3225	8/25/07
12 VAC 30-80-190	Amended	23:20 VA.R. 3242	7/11/07
12 VAC 30-90-31	Amended	23:19 VA.R. 3005	7/1/07
12 VAC 30-90-41	Amended	23:20 VA.R. 3226	8/25/07
12 VAC 30-90-271	Amended	23:20 VA.R. 3229	8/25/07
12 VAC 30-90-290	Amended	23:20 VA.R. 3230	8/25/07
12 VAC 30-90-264	Amended	23:14 VA.R. 2400	4/18/07
12 VAC 30-110-950	Amended	23:18 VA.R. 2898	7/1/07
12 VAC 30-120-61	Amended	23:16 VA.R. 2655	7/1/07
12 VAC 30-120-62	Amended	23:16 VA.R. 2657	7/1/07
12 VAC 30-120-64	Amended	23:16 VA.R. 2659	7/1/07
12 VAC 30-120-65	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-66	Amended	23:16 VA.R. 2660	7/1/07
12 VAC 30-120-68	Amended	23:16 VA.R. 2661	7/1/07
12 VAC 30-120-310 emer	Amended	23:21 VA.R. 3516	7/1/07-6/30/08
12 VAC 30-120-380 emer	Amended	23:21 VA.R. 3517	7/1/07-6/30/08
12 VAC 30-120-700 through 12 VAC 30-120-750	Amended	23:20 VA.R. 3177-3192	7/11/07
12 VAC 30-120-752	Amended	23:20 VA.R. 3192	7/11/07
12 VAC 30-120-753	Amended	23:20 VA.R. 3194	7/11/07
12 VAC 30-120-754	Amended	23:20 VA.R. 3195	7/11/07
12 VAC 30-120-756	Amended	23:20 VA.R. 3197	7/11/07
12 VAC 30-120-758	Amended	23:20 VA.R. 3198	7/11/07
12 VAC 30-120-760	Amended	23:20 VA.R. 3198	7/11/07
12 VAC 30-120-762	Amended	23:20 VA.R. 3199	7/11/07
12 VAC 30-120-764	Amended	23:20 VA.R. 3199	7/11/07
12 VAC 30-120-766	Amended	23:20 VA.R. 3201	7/11/07
12 VAC 30-120-768	Repealed	23:20 VA.R. 3204	7/11/07
12 VAC 30-120-770	Amended	23:20 VA.R. 3206	7/11/07
12 VAC 30-120-772	Amended	23:20 VA.R. 3211	7/11/07
12 VAC 30-120-774	Amended	23:20 VA.R. 3211	7/11/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-776	Amended	23:20 VA.R. 3213	7/11/07
12 VAC 30-120-780	Repealed	23:20 VA.R. 3215	7/11/07
12 VAC 30-120-790	Repealed	23:20 VA.R. 3216	7/11/07
12 VAC 30-120-1600 through 12 VAC 30-120-1660	Added	23:20 VA.R. 3244-3251	7/11/07
12 VAC 30-130-900	Amended	23:12 VA.R. 1967	3/21/07
12 VAC 30-130-910	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-130-930	Amended	23:12 VA.R. 1968	3/21/07
12 VAC 30-135-10 through 12 VAC 30-135-40	Amended	23:21 VA.R. 3520-3522	11/1/07
12 VAC 30-135-80	Amended	23:21 VA.R. 3522	11/1/07
12 VAC 30-141-740	Amended	23:19 VA.R. 3006	7/1/07
12 VAC 35-45-10	Amended	23:10 VA.R. 1562	2/21/07
12 VAC 35-45-25	Added	23:10 VA.R. 1565	2/21/07
12 VAC 35-45-70	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-80	Amended	23:10 VA.R. 1564	2/21/07
12 VAC 35-45-210	Added	23:10 VA.R. 1564	2/21/07
12 VAC 35-105-20	Amended	23:10 VA.R. 1567	2/21/07
12 VAC 35-105-30	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-115 emer	Added	23:10 VA.R. 1566	1/3/07-1/2/08
12 VAC 35-105-590	Amended	23:10 VA.R. 1575	2/21/07
12 VAC 35-105-660	Amended	23:10 VA.R. 1576	2/21/07
12 VAC 35-105-925	Added	23:20 VA.R. 3252	7/11/07
12 VAC 35-210-10 through 12 VAC 35-210-120	Added	23:21 VA.R. 3525-3529	7/25/07
Title 13. Housing			
13 VAC 5-111-10 through 13 VAC 5-111-400	Repealed	23:12 VA.R. 1971	3/21/07
13 VAC 5-112-10 through 13 VAC 5-112-560	Added	23:12 VA.R. 1971-1994	3/21/07
Title 14. Insurance			
14 VAC 5-200-20	Repealed	23:17 VA.R. 2766	9/1/07
14 VAC 5-200-30 through 14 VAC 5-200-60	Amended	23:17 VA.R. 2766-2770	9/1/07
14 VAC 5-200-70 through 14 VAC 5-200-90	Amended	23:17 VA.R. 2770-2774	9/1/07
14 VAC 5-200-110	Amended	23:17 VA.R. 2774	9/1/07
14 VAC 5-200-120	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-153	Amended	23:17 VA.R. 2777	9/1/07
14 VAC 5-200-170	Amended	23:17 VA.R. 2780	9/1/07
14 VAC 5-200-175	Amended	23:17 VA.R. 2781	9/1/07
14 VAC 5-200-181	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-183	Added	23:17 VA.R. 2782	9/1/07
14 VAC 5-200-185	Amended	23:17 VA.R. 2783	9/1/07
14 VAC 5-200-187	Amended	23:17 VA.R. 2785	9/1/07
14 VAC 5-200-200	Amended	23:17 VA.R. 2786	9/1/07
14 VAC 5-200-201	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-200-205	Added	23:17 VA.R. 2788	9/1/07
14 VAC 5-215-20	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-30	Amended	23:22 VA.R. 3768	7/1/07
14 VAC 5-215-50	Amended	23:22 VA.R. 3769	7/1/07
14 VAC 5-215-60	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-215-80	Amended	23:22 VA.R. 3770	7/1/07
14 VAC 5-321-10	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-20	Amended	23:10 VA.R. 1577	1/1/07
14 VAC 5-321-30	Amended	23:10 VA.R. 1578	1/1/07
14 VAC 5-321-70	Added	23:10 VA.R. 1578	1/1/07
14 VAC 5-322-10 through 14 VAC 5-322-50	Added	23:10 VA.R. 1579-1581	1/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 16. Labor and Employment			
16 VAC 25-55-10 and 16 VAC 25-55-20	Added	23:12 VA.R. 1995-1996	3/22/07
16 VAC 25-75-10	Added	23:21 VA.R. 3544	7/26/07
16 VAC 25-90-1910.268 (b) (7)	Repealed	23:21 VA.R. 3545	7/26/07
16 VAC 25-90-1910.134	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-90-1910.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1017	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1018	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1025	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1027	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1028	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1029	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1043	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1044	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1045	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1047	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1048	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1050	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-90-1910.1052	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-100-1915.5	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.505	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.507	Amended	23:12 VA.R. 1998	3/21/07
16 VAC 25-100-1915.1000	Amended	23:12 VA.R. 1996	3/21/07
16 VAC 25-100-1915.1001	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.55	Added	23:12 VA.R. 1996	3/21/07
16 VAC 25-175-1926.60	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.62	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1002, Appendix A of Subpart W	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-175-1926.1101	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-175-1926.1127	Amended	23:12 VA.R. 1997	3/21/07
16 VAC 25-190-1928.52	Amended	23:12 VA.R. 1999	3/21/07
16 VAC 25-190-1928.53, Appendix B to Subpart C	Amended	23:12 VA.R. 1999	3/21/07
Title 18. Professional and Occupational Licensing			
18 VAC 5-10-10 through 18 VAC 5-10-90	Amended	23:11 VA.R. 1678-1680	4/23/07
18 VAC 10-20-230	Amended	23:21 VA.R. 3548	9/10/07
18 VAC 10-20-420	Amended	23:21 VA.R. 3550	8/1/07
18 VAC 10-20-440	Amended	23:21 VA.R. 3551	8/1/07
18 VAC 10-20-450	Amended	23:21 VA.R. 3551	8/1/07
18 VAC 15-20 (Forms)	Added	23:15 VA.R. 2514	--
18 VAC 15-30 (Forms)	Amended	23:15 VA.R. 2514	--
18 VAC 25-21-80	Amended	23:21 VA.R. 3557	8/1/07
18 VAC 25-21-90	Amended	23:21 VA.R. 3558	8/1/07
18 VAC 25-21-180	Amended	23:21 VA.R. 3558	8/1/07
18 VAC 25-21-230 through 18 VAC 25-21-280	Added	23:21 VA.R. 3559-3560	8/1/07
18 VAC 30-10-10 through 18 VAC 30-10-80	Amended	23:20 VA.R. 3276-3277	8/25/07
18 VAC 30-10-100	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 30-10-110	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 30-10-120	Amended	23:20 VA.R. 3277	8/25/07
18 VAC 41-60-10 through 18 VAC 41-60-220	Added	23:12 VA.R. 2000-2009	4/1/07
18 VAC 45-20-40	Amended	23:21 VA.R. 3562	9/10/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 47-20-10	Amended	23:21 VA.R. 3563	8/1/07
18 VAC 47-20-35	Added	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-210	Amended	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-240	Repealed	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-250	Added	23:21 VA.R. 3564	8/1/07
18 VAC 47-20-260	Added	23:21 VA.R. 3565	8/1/07
18 VAC 47-20-270	Added	23:21 VA.R. 3565	8/1/07
18 VAC 50-30-10 through 18 VAC 50-30-50	Amended	23:12 VA.R. 2020-2025	4/1/07
18 VAC 50-30-60	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-70	Amended	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-80	Repealed	23:12 VA.R. 2025	4/1/07
18 VAC 50-30-90 through 18 VAC 50-30-150	Amended	23:12 VA.R. 2026-2028	4/1/07
18 VAC 50-30-180	Repealed	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-185	Added	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-190	Amended	23:12 VA.R. 2028	4/1/07
18 VAC 50-30-200	Amended	23:12 VA.R. 2029	4/1/07
18 VAC 50-30-210 through 18 VAC 50-30-260	Added	23:12 VA.R. 2030-2031	4/1/07
18 VAC 60-10-10 through 18 VAC 60-10-80	Amended	23:20 VA.R. 3283-3284	8/25/07
18 VAC 60-10-100	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-10-110	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-10-120	Amended	23:20 VA.R. 3284	8/25/07
18 VAC 60-20-210	Amended	23:20 VA.R. 3286	8/25/07
18 VAC 60-20-180	Amended	23:15 VA.R. 2510	5/2/07
18 VAC 65-40-10	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-40	Amended	23:12 VA.R. 2031	3/21/07
18 VAC 65-40-90	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-110	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-130	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-160	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-220	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-250	Amended	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-300	Repealed	23:12 VA.R. 2032	3/21/07
18 VAC 65-40-320	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 65-40-340	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 75-10-10 through 18 VAC 75-10-80	Amended	23:20 VA.R. 3288-3290	8/25/07
18 VAC 75-10-100	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-10-110	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-10-120	Amended	23:20 VA.R. 3290	8/25/07
18 VAC 75-20-60	Amended	23:21 VA.R. 3574	9/10/07
18 VAC 75-20-70	Amended	23:21 VA.R. 3575	9/10/07
18 VAC 75-20-120	Added	23:21 VA.R. 3575	9/10/07
18 VAC 75-20-130	Added	23:21 VA.R. 3575	9/10/07
18 VAC 75-20-140	Added	23:21 VA.R. 3575	9/10/07
18 VAC 76-30-10 through 18 VAC 76-30-80	Amended	23:20 VA.R. 3292-3294	8/25/07
18 VAC 76-30-100	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 76-30-110	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 76-30-120	Amended	23:20 VA.R. 3294	8/25/07
18 VAC 85-10 through 18 VAC 85-10-70	Amended	23:20 VA.R. 3296-3297	8/25/07
18 VAC 85-10-90	Amended	23:20 VA.R. 3297	8/25/07
18 VAC 85-10-100	Amended	23:20 VA.R. 3297	8/25/07
18 VAC 85-10-110	Amended	23:20 VA.R. 3298	8/25/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-20-30	Amended	23:20 VA.R. 3299	8/25/07
18 VAC 85-20-235	Amended	23:11 VA.R. 1692	4/21/07
18 VAC 85-20-290	Amended	23:13 VA.R. 2206	4/4/07
18 VAC 85-101-50	Amended	23:15 VA.R. 2511	5/2/07
18 VAC 85-130-10 through 18 VAC 85-130-170	Added	23:10 VA.R. 1582-1586	2/21/07
18 VAC 90-10-10 through 18 VAC 90-10-80	Amended	23:20 VA.R. 3307-3309	8/25/07
18 VAC 90-10-100	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-10-110	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-10-120	Amended	23:20 VA.R. 3309	8/25/07
18 VAC 90-20-60	Amended	23:12 VA.R. 2033	3/21/07
18 VAC 90-25-15 through 18 VAC 90-25-80	Amended	23:21 VA.R. 3576-3581	7/25/07
18 VAC 90-25-71	Added	23:21 VA.R. 3580	7/25/07
18 VAC 90-25-72	Added	23:21 VA.R. 3580	7/25/07
18 VAC 90-25-81	Added	23:21 VA.R. 3581	7/25/07
18 VAC 90-25-100 through 18 VAC 90-25-130	Amended	23:21 VA.R. 3581-3583	7/25/07
18 VAC 90-30-120	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 90-30-230	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-40-140	Amended	23:12 VA.R. 2034	3/21/07
18 VAC 90-60-10 through 18 VAC 90-60-120	Added	23:19 VA.R. 3008-3012	7/1/07
18 VAC 90-60-120	Erratum	23:20 VA.R. 3378	--
18 VAC 105-10-10 through 18 VAC 105-10-80	Amended	23:20 VA.R. 3315-3316	8/25/07
18 VAC 105-10-100	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-10-110	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-10-120	Amended	23:20 VA.R. 3316	8/25/07
18 VAC 105-20-10	Amended	23:22 VA.R. 3791	9/24/07
18 VAC 110-10-10 through 18 VAC 110-10-80	Amended	23:20 VA.R. 3318-3320	8/25/07
18 VAC 110-10-100	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-10-110	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-10-120	Amended	23:20 VA.R. 3320	8/25/07
18 VAC 110-20-285	Amended	23:17 VA.R. 2791	5/30/07
18 VAC 112-10-10 through 18 VAC 112-10-80	Amended	23:20 VA.R. 3327-3329	8/25/07
18 VAC 112-10-100	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 112-10-110	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 112-10-120	Amended	23:20 VA.R. 3329	8/25/07
18 VAC 115-10-10 through 18 VAC 115-10-80	Amended	23:20 VA.R. 3331-3332	8/25/07
18 VAC 115-10-100	Amended	23:20 VA.R. 3332	8/25/07
18 VAC 115-10-110	Amended	23:20 VA.R. 3333	8/25/07
18 VAC 115-10-120	Amended	23:20 VA.R. 3333	8/25/07
18 VAC 115-20-20	Amended	23:14 VA.R. 2404	4/18/07
18 VAC 115-20-130	Amended	23:21 VA.R. 3584	7/25/07
18 VAC 115-30-30	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-40-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-50-20	Amended	23:14 VA.R. 2405	4/18/07
18 VAC 115-50-110	Amended	23:21 VA.R. 3585	7/25/07
18 VAC 115-60-20	Amended	23:14 VA.R. 2406	4/18/07
18 VAC 115-60-130	Amended	23:21 VA.R. 3587	7/25/07
18 VAC 120-30-10	Amended	23:21 VA.R. 3589	8/1/07
18 VAC 120-30-30	Amended	23:21 VA.R. 3590	8/1/07
18 VAC 120-30-40	Amended	23:21 VA.R. 3590	8/1/07
18 VAC 120-30-50	Amended	23:21 VA.R. 3591	8/1/07
18 VAC 120-30-55	Added	23:21 VA.R. 3591	8/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 120-30-90	Repealed	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-100	Amended	23:21 VA.R. 3588	8/1/07
18 VAC 120-30-100	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-130	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-150	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-160	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-180	Amended	23:21 VA.R. 3592	8/1/07
18 VAC 120-30-190	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-200	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-220	Amended	23:21 VA.R. 3593	8/1/07
18 VAC 120-30-230	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-240	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-250	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-270	Amended	23:21 VA.R. 3594	8/1/07
18 VAC 120-30-280	Amended	23:21 VA.R. 3595	8/1/07
18 VAC 120-30-290	Added	23:21 VA.R. 3595	8/1/07
18 VAC 120-30-300	Added	23:21 VA.R. 3595	8/1/07
18 VAC 120-30-310	Added	23:21 VA.R. 3595	8/1/07
18 VAC 125-10-10 through 18 VAC 125-10-80	Amended	23:20 VA.R. 3346-3348	8/25/07
18 VAC 125-10-100	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-10-110	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-10-120	Amended	23:20 VA.R. 3348	8/25/07
18 VAC 125-20-30	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 125-30-20	Amended	23:12 VA.R. 2035	3/21/07
18 VAC 135-50-10	Amended	23:22 VA.R. 3794	9/22/07
18 VAC 135-50-20	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-220	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 135-50-400	Amended	23:22 VA.R. 3795	9/22/07
18 VAC 140-10-10 through 18 VAC 140-10-80	Amended	23:20 VA.R. 3350-3351	8/25/07
18 VAC 140-10-100	Amended	23:20 VA.R. 3351	8/25/07
18 VAC 140-10-110	Amended	23:20 VA.R. 3352	8/25/07
18 VAC 140-10-120	Amended	23:20 VA.R. 3352	8/25/07
18 VAC 145-30-40	Amended	23:20 VA.R. 3352	7/12/07
Title 19. Public Safety			
19 VAC 30-20-80	Amended	23:10 VA.R. 1587	3/1/07
Title 21. Securities and Retail Franchising			
21 VAC 5-10	Erratum	23:18 VA.R. 2935	--
21 VAC 5-20	Erratum	23:18 VA.R. 2935	--
21 VAC 5-110	Erratum	23:18 VA.R. 2935	--
Title 22. Social Services			
22 VAC 15-10-40	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-10-50	Amended	23:10 VA.R. 1587	3/1/07
22 VAC 15-30-10	Amended	23:20 VA.R. 3353	7/11/07
22 VAC 15-30-310	Amended	23:20 VA.R. 3356	7/11/07
22 VAC 15-30-580	Amended	23:20 VA.R. 3358	7/11/07
22 VAC 40-20-10	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-25-10 through 22 VAC 40-25-70	Amended	23:20 VA.R. 3360-3364	8/1/07
22 VAC 40-25-45	Added	23:20 VA.R. 3363	8/1/07
22 VAC 40-41-10 through 22 VAC 40-41-50	Amended	23:22 VA.R. 3796-3799	9/1/07
22 VAC 40-41-55	Amended	23:22 VA.R. 3799	9/1/07
22 VAC 40-41-60	Amended	23:22 VA.R. 3799	9/1/07

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-540-10	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-600-10 through 22 VAC 40-600-240	Repealed	23:20 VA.R. 3364	8/1/07
22 VAC 40-601-10 through 22 VAC 40-601-40	Added	23:20 VA.R. 3365-3366	8/1/07
22 VAC 40-740-10	Amended	23:10 VA.R. 1588	3/1/07
22 VAC 40-740-15	Added	23:10 VA.R. 1591	3/1/07
22 VAC 40-740-20	Repealed	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-21	Added	23:10 VA.R. 1592	3/1/07
22 VAC 40-740-30	Repealed	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-31	Added	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-40	Amended	23:10 VA.R. 1593	3/1/07
22 VAC 40-740-50	Amended	23:10 VA.R. 1594	3/1/07
22 VAC 40-740-60	Amended	23:10 VA.R. 1595	3/1/07
22 VAC 40-740-70	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-740-80	Added	23:10 VA.R. 1596	3/1/07
22 VAC 40-880-200	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-250	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-270	Amended	23:20 VA.R. 3367	8/1/07
22 VAC 40-880-350	Amended	23:20 VA.R. 3368	8/1/07
22 VAC 40-880-620	Amended	23:20 VA.R. 3369	8/1/07
Title 24. Transportation and Motor Vehicles			
24 VAC 30-155	Erratum	23:21 VA.R. 3619	--
24 VAC 30-155-10 through 24 VAC 30-155-100	Added	23:18 VA.R. 2915-2930	7/1/07
24 VAC 30-320	Repealed	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-10	Added	23:16 VA.R. 2665	3/22/07
24 VAC 30-325-20	Added	23:16 VA.R. 2666	3/22/07
24 VAC 30-330	Repealed	23:16 VA.R. 2665	3/22/07

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PSYCHOLOGY

Agency Decision

Title of Regulation: 18 VAC 125-20. Regulations
Governing the Practice of Psychology.

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

Name of Petitioner: Jan Hembree, Ph.D., for the Virginia
Academy of Clinical Psychologists.

Nature of Petitioner's Request: To amend regulations to
ensure that graduate study for the license to practice clinical
psychology includes substantial direct service training within
the practicum and during the internship.

Agency's Decision: Request granted.

Statement of Reasons for Decision: The board has referred
the petition to the Regulatory Committee to consider the
issues relating to the post-doctoral experience, recent changes
in such programs, and requirements of other states relating to
a residency. The committee will report its findings to the full
board for further action.

Agency Contact: Evelyn B. Brown, Executive Director,
Board of Psychology, 6606 West Broad Street, Richmond,
VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-
7250, or email evelyn.brown@dhp.virginia.gov.

VA.R. Doc. No. R07-105; Filed June 25, 2007, 9:16 a.m.

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled **4 VAC 25-130, Coal Surface Mining Reclamation Regulations**. The purpose of the proposed action is to achieve consistency with federal standards on revegetation, topsoil, and water diversion structures during reclamation of mined lands. The action will also implement a 30-day deadline for filing applications for review and requests for hearing on decisions not to take enforcement action under the regulation.

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

Statutory Authority: §§ 45.1-161.3 and 45.1-230 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 8, 2007.

Contact: David Spears, Regulatory Coordinator, Department of Mines, Minerals and Energy, 202 N. 9th St., 8th Floor, Richmond, VA 23219-3402, telephone (804) 692-3212, FAX (804) 692-3237, or email david.spears@dmme.virginia.gov.

V.A.R. Doc. No. R07-275; Filed June 15, 2007, 10:30 a.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider amending regulations entitled **8 VAC 20-100, Regulations Governing Literary Loan Applications in Virginia**. The purpose of the proposed action is to review and revise the regulation in order to ensure that it comports with the requirements of legislation enacted by the 2007 Acts of Assembly. There are several major elements considered for addition, deletion or revision. They include (i) revising the definitions section; (ii) requiring that a school board's application to the Board of Education for a loan from the

Literary Fund is authorized by the governing body and the school board; (iii) adding a provision requiring the board not to disburse any proceeds of any approved loan before its receipt of the concurrent approval of the governing body at the time of initial disbursement and an acceptable opinion of bond counsel obtained by the local governing body as to the validity of the loan; (iv) removing provisions that require the examination of a title to property on an application for a loan, the certificate of the clerk of court or copy of a lease on the application for a loan, and the submission of the application and certificate of title to the Attorney General; (v) reviewing and revising each section of the current regulations to ensure compliance with the Code of Virginia; and (vi) adding provisions that may be necessary for the general administration of the program by the Department of Education.

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

Statutory Authority: §§ 22.1-142 and 22.1-161 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 8, 2007.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

V.A.R. Doc. No. R07-280; Filed June 20, 2007, 11:43 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Board of Education intends to consider repealing regulations entitled **8 VAC 20-280, Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs** and promulgating regulations entitled **8 VAC 20-281, Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs**. The 2003 Acts of Assembly passed legislation allowing academic-year Governor's schools to choose a fiscal agent from among the treasurers of the cities and/or counties participating in this joint school program. Current law dictates that each of the regional programs other than the Governor's schools designate a fiscal agent according to the physical location of the school. Chapter 45 of the 2007 Acts of Assembly, will permit all joint school boards to designate a fiscal agent from among participating school divisions regardless of the physical location of the school beginning July 1, 2007. This bill resulted from a legislative proposal put forth by the Department of Education

Notices of Intended Regulatory Action

to streamline the operation of joint schools. As a result of this legislation and the language that needs to be added to address changes that have been made in the operation of joint schools and joint programs since the regulation was written, these regulations need to be revised. Because the changes will be extensive, this will be accomplished by repealing the current regulation and promulgating a new regulation.

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

Statutory Authority: § 22.1-16 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 8, 2007.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

VA.R. Doc. No. R07-279; Filed June 20, 2007, 11:42 a.m.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Air Pollution Control Board intends to consider promulgating regulations entitled **9 VAC 5-45, Consumer and Commercial Products Regulation**. The purpose of the proposed action is to adopt new and revised standards for the control of volatile organic compound (VOC) emissions from certain consumer and commercial products within the Northern Virginia and Fredericksburg VOC Emissions Control Areas. This action is being taken to allow Virginia to meet its obligation to implement control measures in areas designated as nonattainment under the eight-hour ozone standard and to implement contingency measures within former nonattainment areas that have been redesignated as ozone maintenance areas.

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

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

Public comments may be submitted until 5 p.m. on July 25, 2007.

Contact: Gary E. Graham, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, FAX (804) 698-4510, or email gegraham@deq.virginia.gov.

VA.R. Doc. No. R07-264; Filed June 1, 2007, 9:10 a.m.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with §2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled **9VAC25-640, Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements**. The purpose of the proposed action is to (i) reduce the cost of compliance with the regulation by proposing modified compliance requirements that are not less stringent than the existing requirements, but may be more cost effective to secure; (ii) propose administrative changes to the regulation that do not affect the regulatory requirements; and (iii) clarify how VPSTF is used to reimburse tank operators for the cost of containment and cleanup of a petroleum release from an AST.

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

Statutory Authority: §§62.1-44.15 and 62.1-44.34:16 of the Code of Virginia.

Public comments may be submitted until August 23, 2007.

Contact: Josiah Bennett, Department of Environmental Quality, 629 E. Main St., P.O. Box 1105, Richmond, VA 23219, telephone (804) 698-4205 or email jqbennett@deq.virginia.gov.

VA.R. Doc. No. R07-293; Filed July 1, 2007, Noon

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled:

12 VAC 30-50, Amount Duration and Scope of Medical and Remedial Care Services.

12 VAC 30-60, Standards Established and Methods Used to Assure High Quality Care.

12 VAC 30-80, Methods and Standards for Establishing Payment Rates; Other Types of Care.

12 VAC 30-120, Waivered Services.

The purpose of the proposed action is to include emergency services; evaluation and assessment; outpatient services; intensive outpatient services; targeted case management; day

Notices of Intended Regulatory Action

treatment and opioid treatment services. Substance abuse services, with the exception of residential and day treatment services for pregnant and postpartum women are not currently a part of the state plan. The addition of these services will fill a gap in the continuum of care for Medicaid enrollees.

MEDALLION Primary Care Case Management (PCCM) recipients will have substance abuse services covered by Medicaid. These services are not subject to required referrals by the primary care physician. Medallion II recipients who are enrolled in an MCO will have outpatient services (excluding intensive outpatient services) and assessment and evaluation services covered by the MCOs. All other mandates substance services to be covered (emergency services (crisis), intensive outpatient services, day treatment services, opioid treatment services, and substance abuse case management services) will be carved out of the MCO and covered by DMAS.

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 July 25, 2007.

Contact: Catherine Hancock, Policy & Research Division, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 225-4272, FAX (804) 786-1680, or email catherine.hancock@dmas.virginia.gov.

VA.R. Doc. No. R07-262; Filed May 30, 2007, 2:51 p.m.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Mental Health, Mental Retardation And Substance Abuse Services Board intends to consider amending regulations entitled **12 VAC 35-105, Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation, Substance Abuse, the Individual Family Developmental Disabilities Support Waiver, and Residential Brain Injury Services**. The purpose of the proposed action is to update the regulations to be consistent with current statutory mandates and standards of practice.

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

Statutory Authority: §§ 37.2-203 and 37.2-404 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

Contact: Leslie Anderson, Director, Office of Licensing, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 371-6885, FAX (804) 692-0066 or email leslie.anderson@dmhmrsas.virginia.gov.

VA.R. Doc. No. R07-260; Filed May 25, 2007, 11:33 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Mental Health, Mental Retardation And Substance Abuse Services Board intends to consider amending regulations entitled **12 VAC 35-190, Regulations Establishing Procedures for Voluntarily Admitting Persons Who are Mentally Retarded to State Mental Retardation Facilities**. The purpose of the proposed action is to revise the regulations to clarify, update and respond to changes in practice related to admissions to state mental retardation facilities.

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

Statutory Authority: § 37.2-203 of the Code of Virginia.

Public comments may be submitted until July 27, 2007.

Contact: Dawn Traver, Office of Mental Retardation Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, 1220 Bank St., Richmond, VA 23218-1797, telephone (757) 253-4316, FAX (757) 253-5440, or email dawn.traver@co.dmhmrsas.virginia.gov.

VA.R. Doc. No. R07-261; Filed May 25, 2007, 11:33 a.m.



TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Apprenticeship Council

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Labor and Industry intends to consider amending regulations entitled **16 VAC 20-20, Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia**. The purpose of the proposed action is to add new definitions and makes language changes to clarify the Regulations Governing the Administration of Apprenticeship Programs in the Commonwealth of Virginia.

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

Notices of Intended Regulatory Action

Statutory Authority: § 40.1-6 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 26, 2007.

Contact: Beverley G. 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, or email bev.donati@doli.virginia.gov.

VA.R. Doc. No. R07-259; Filed May 31, 2007, 11:45 a.m.

VIRGINIA WORKERS' COMPENSATION COMMISSION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Virginia Workers' Compensation Commission intends to consider amending regulations entitled **16 VAC 30-50, Rules of the Virginia Workers' Compensation Commission**. The purpose of the proposed action is to establish permissible charges and other requirements regarding the provision of medical records, reports, and medical opinions in the workers' compensation context.

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

Statutory Authority: § 65.2-210 of the Code of Virginia.

Public comments may be submitted until August 23, 2007.

Contact: Deborah Hathcock, Virginia Workers' Compensation Commission, Office of the Chair, 1000 DMV Drive, Richmond, VA 23220, telephone (804) 367-8657, FAX (877) 299-7360 or email deborah.hathcock@vwc.state.va.us.

VA.R. Doc. No. R07-281; Filed June 19, 2007, 3:11 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHYSICAL THERAPY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Physical Therapy intends to consider amending regulations entitled **18 VAC 112-20, Regulations Governing the Practice of Physical Therapy**. The purpose of the proposed action is to clarify and simplify definitions and requirements for trainees and for foreign-trained applicants, specify the additional clinical training or course work required to retake the examination after three failures, add evidence of competency for licensure

by endorsement, clarify the responsibilities of physical therapist in the evaluation and discharge of a patient and in the supervision of physical therapist assistants or other personnel, and modify the requirements for renewal or reinstatement of licensure. The board will consider the addition of provisions on standards of professional practice and grounds for unprofessional conduct.

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

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

Public comments may be submitted until 5 p.m. on July 25, 2007.

Contact: Lisa R. Hahn, Executive Director, Board of Physical Therapy, Alcoa Bldg., 6603 W. Broad St., 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9924, FAX (804) 662-9523, or email lisa.hahn@dhp.virginia.gov.

VA.R. Doc. No. R07-269; Filed June 5, 2007, 11:25 a.m.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF MOTOR VEHICLES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Department of Motor Vehicles intends to consider promulgating regulations entitled **24 VAC 20-81, Hauling Permits**. The purpose of the proposed action is to establish requirements for the issuance of permits to haul overweight and overdimension vehicles over the highways of Virginia.

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

Statutory Authority: § 46.2-203 and Article 18 (§ 46.2-1139 et seq.) of Chapter 10 of Title 46.2 of the Code of Virginia.

Public comments may be submitted until July 25, 2007.

Contact: Ron Thompson, Senior Policy Analyst, Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1844, FAX (804) 367-6631, toll-free 1-800-435-5137 or email ronald.thompson@dmv.virginia.gov.

VA.R. Doc. No. R07-271; Filed June 5, 2007, 3:29 p.m.

Notices of Intended Regulatory Action

BOARD OF TOWING AND RECOVERY OPERATORS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Towing and Recovery Operators intends to consider promulgating regulations entitled **24 VAC 27-30, Regulations Governing the Practice of Towing and Recovery Operators**. The purpose of the proposed action is to create a new regulation to provide for the licensure, practice, and discipline of towing and recovery operators. A public meeting on this action is scheduled on July 16, 2007, at 9 a.m. at the Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

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

Statutory Authority: § 46.2-2805 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 25, 2007.

Contact: Benjamin Foster, Executive Director, Board for Towing & Recovery Operators, Virginia Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0226, FAX (804) 367-6631, or email benjamin.foster@dmv.virginia.gov.

VA.R. Doc. No. R07-270; Filed June 5, 2007, 11:17 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board for Towing and Recovery Operators intends to consider promulgating regulations entitled **24 VAC 27-50, Regulations Governing the Provision of Public Safety Towing and Recovery Services**. The purpose of the proposed action is to carry out the mandate of § 46.2-2826 of the Code of Virginia to establish regulations required of Class A and Class B operators to provide public safety towing and recovery services. A public meeting on this action is scheduled on July 16, 2007, at 9 a.m. at the Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.

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

Statutory Authority: § 46.2-2826 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on July 25, 2007.

Contact: Benjamin Foster, Executive Director, Board for Towing & Recovery Operators, Virginia Department of Motor Vehicles, P.O. Box 27412, Richmond, VA 23269, telephone (804) 367-0226, FAX (804) 367-6631, or email benjamin.foster@dmv.virginia.gov.

VA.R. Doc. No. R07-277; Filed June 5, 2007, 11:18 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

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

Title of Regulation: 4VAC20-1120. Pertaining to Tilefish and Grouper (amending 4VAC20-1120-20).

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

Effective Date: June 28, 2007.

Agency Contact: Brandy L. Battle, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (757) 247-2002 or email brandy.battle@mrc.virginia.gov.

Summary:

The amendments provide the correct scientific name for Coney, Graysby, Yellowmouth grouper and Sand tilefish.

4VAC20-1120-20. Definitions.

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

"Commercial fishing" or "fishing commercially" or "commercial fishery" means fishing by any person where the catch is for sale, barter, trade, or any commercial purpose, or is intended for sale, barter, trade, or any commercial purpose.

"Grouper" means any of the following species:

- Black grouper, *Mycteroperca bonaci*
- Coney, ~~*Epinephelus fulvus*~~ *Cephalopholis fulva*
- Gag grouper, *Mycteroperca microlepis*
- Goliath grouper, *Epinephelus itajara*
- Graysby, ~~*Epinephelus cruentatus*~~ *Cephalopholis cruentata*
- Misty grouper, *Epinephelus mystacinus*
- Nassau grouper, *Epinephelus striatus*
- Red grouper, *Epinephelus morio*

- Red Hind, *Epinephelus guttatus*
- Rock Hind, *Epinephelus adscensionis*
- Scamp, *Mycteroperca phenax*
- Snowy grouper, *Epinephelus niveatus*
- Speckled Hind, *Epinephelus drummondhayi*
- Tiger grouper, *Mycteroperca tigris*
- Warsaw grouper, *Epinephelus nigritus*
- Wreckfish, *Polyprion americanus*
- Yellowedge grouper, *Epinephelus flavolimbatus*
- Yellowfin grouper, *Mycteroperca venenosa*
- Yellowmouth grouper, *Mycteroperca ~~interstitialis~~ interstitialis*

"Recreational fishing" or "fishing recreationally" or "recreationally fishing" means fishing by any person, whether licensed or exempted from licensing, where the catch is not for sale, barter, trade, or any commercial purpose, or is not intended for sale, barter, trade, or any commercial purpose.

"Tilefish" means any of the following species:

- Blueline tilefish, *Caulolatilus microps*
- Golden tilefish, *Lopholatilus chamaeleonticeps*
- Sand tilefish, ~~*Lutjanus vivanus*~~ *Malacanthus plumieri*

VA.R. Doc. No. R07-287; Filed June 28, 2007, 9:29 a.m.



TITLE 5. CORPORATIONS

STATE CORPORATION COMMISSION, CLERK'S OFFICE

Final Regulation

Title of Regulation: 5VAC5-30. Uniform Commercial Code Filing Rules (amending 5VAC5-30-10, 5VAC5-30-20, 5VAC5-30-30, 5VAC5-30-40, 5VAC5-30-50, 5VAC5-30-60, 5VAC5-30-70).

Statutory Authority: §§8.9A-526 and 12.1-13 of the Code of Virginia.

Effective Date: July 1, 2007.

Agency Contact: Joel H. Peck, Clerk of the Commission, State Corporation Commission, P.O. Box 2118, Richmond,

Regulations

VA 23218, telephone (804) 371-9834, FAX (804) 371-9133, or email joel.peck@scc.virginia.gov.

Summary:

The amendments modify the fees charged by the State Corporation Commission for providing and certifying copies of Uniform Commercial Code records in order to comport with statutory changes that will take effect on July 1, 2007. The amendments also make various technical revisions to the Uniform Commercial Code Filing Rules. Modifications were made to the proposed regulation to clarify the meaning of the term "amendment" and to correct the name of the two forms.

AT RICHMOND, JUNE 21, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. CLK-2007-00003

Ex Parte: In re: Uniform Commercial Code Filing Rules

ORDER ADOPTING REGULATIONS

By Order entered in this case on April 25, 2007, the State Corporation Commission ("Commission") directed that notice be given of its proposal, acting pursuant to § 8.9A-526 of the Code of Virginia, to amend its rules governing the practices of the Clerk's Office when acting as the filing office for financing statements and associated records permitted to be filed under Title 8.9A of the Code of Virginia. Notice of the proposed regulations was published in the Virginia Register on May 14, 2007, posted on the Commission's website, and mailed to numerous individuals designated by the Manager of the Uniform Commercial Code section of the Clerk's Office. Interested persons were afforded an opportunity to request a hearing or file written comments on or before June 1, 2007. The Commission received one comment letter from R. Gaines Tavenner. Amongst Mr. Tavenner's comments was a suggestion to clarify the meaning of the term "amendment" in 5 VAC 5-30-20.

NOW THE COMMISSION, having considered the record, the proposed regulations, the comment letter filed, and Staff recommendations, concludes that the proposed regulations should be adopted with a clarifying modification to the definition of the term "amendment."

THEREFORE, IT IS ORDERED THAT:

- (1) The modified proposed regulations (the "regulations"), 5 VAC 5-30-10 et seq., attached hereto are adopted effective July 1, 2007.
- (2) The regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/caseinfo.htm>.

(3) AN ATTESTED COPY hereof, together with a copy of the regulations, shall be sent to the Registrar of Regulations for publication in the Virginia Register.

(4) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be sent to the Manager of the Uniform Commercial Code section of the Clerk's Office, who shall forthwith mail a copy of this Order, together with the regulations, to such interested persons as he may designate.

5VAC5-30-10. Scope; severability.

This chapter governs the filing and handling of records in the Clerk's Office of the State Corporation Commission pursuant to Title 8.9A of the Code of Virginia. Each provision of this ~~regulation~~ chapter is severable from all other provisions.

5VAC5-30-20. Definitions.

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

"Active record" means a UCC record that has not reached the one-year anniversary of its lapse date.

"Amendment" means a UCC record that amends the information contained in a financing statement. Amendments [also] include (i) assignments and (ii) continuation and termination statements.

"Assignment" means an amendment that assigns all or a part of a secured party's power to authorize an amendment to a financing statement.

"Continuation statement" shall have the meaning prescribed by §8.9A-102(a)(27) of the Code of Virginia.

"Correction statement" means a UCC record that indicates that a financing statement is inaccurate or wrongfully filed.

"File number" shall have the meaning prescribed by §8.9A-519(b) of the Code of Virginia.

"Filing office" means the Clerk's Office of the State Corporation Commission.

"Filing officer" means the Clerk of the State Corporation Commission.

"Filing officer statement" means a statement entered into the filing office's information system to correct an error by the filing office.

"Financing statement" shall have the meaning prescribed by §8.9A-102(a)(39) of the Code of Virginia.

"Inactive record" means a UCC record that has reached the first anniversary of its lapse date.

"Individual" means a natural person, living or deceased.

"Initial financing statement" means a UCC record containing the information required to be in an initial financing statement and that causes the filing office to establish the initial record of existence of a financing statement.

"Organization" means a legal person that is not an individual.

"Remitter" means a person who tenders a UCC record to the filing officer for filing, whether the person is a filer or an agent of a filer responsible for tendering the record for filing. "Remitter" does not include a person responsible merely for the delivery of the record to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process.

"Secured party of record" shall have the meaning prescribed by §8.9A-511 of the Code of Virginia.

"Termination statement" shall have the meaning prescribed by §8.9A-102(a)(79) of the Code of Virginia.

"UCC" means the Uniform Commercial Code - Secured Transactions (§8.9A-101 et seq. of the Code of Virginia).

"UCC record" means an initial financing statement, an amendment, and a correction or filing officer statement, and shall not be deemed to refer exclusively to paper or paper-based writings.

5VAC5-30-30. General filing and search requirements.

A. UCC records may be tendered for filing at the filing office as follows:

1. By personal delivery, at the filing office street address;
2. By courier delivery, at the filing office street address; or
3. By postal delivery, to the filing office mailing address.

B. The filing time for a UCC record delivered by ~~these~~ any of the foregoing methods is the time the UCC record is date-and-time stamped by the filing office even though the UCC record may not yet have been accepted for filing and may be subsequently rejected.

C. UCC search requests may be delivered to the filing office by any of the ~~means~~ methods by which UCC records may be delivered to the filing office. ~~A search request for a debtor named on an initial financing statement may be made on the initial financing statement form if the form is accepted and the relevant search fee is also tendered.~~

5VAC5-30-40. Forms, fees, and payments.

A. Forms.

1. The filing office shall only accept forms for UCC records that conform to the requirements of this chapter.

2. The forms set forth in §8.9A-521 of the Code of Virginia shall be accepted.

~~3. A form for the relevant filing of a UCC record approved by the International Association of Corporation Administrators on or after July 28, 1998; The forms approved by the International Association of Commercial Administrators as they appear on the filing office's website (http://www.scc.virginia.gov/division/clk/fee_ucc.htm) shall be accepted.~~

4. The filing officer may approve ~~additional~~ other forms for acceptance, including additional forms promulgated by the International Association of ~~Corporation~~ Commercial Administrators.

B. Fees.

1. The fee for filing and indexing a UCC record communicated on paper is \$20.

2. The fee for a UCC search request communicated on paper is \$7.00.

3. The fee for UCC search copies is ~~\$1.00 for each of the first two pages and 50¢~~ \$1.00 for each ~~additional~~ additional page. The fee for affixing the seal of the commission to a certificate is ~~\$1.00~~ \$3.00.

C. Methods of payment. Filing fees and fees for services provided under this regulation may be paid by the following methods:

1. Payment in cash shall be accepted if paid in person at the filing office.

2. Personal checks, cashier's checks and money orders made payable to the State Corporation Commission or Treasurer of Virginia shall be accepted for payment if drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office.

D. Overpayment and underpayment policies.

1. The filing officer shall notify the remitter of the amount of any overpayment exceeding \$24.99 and send the remitter the appropriate procedure and form for requesting a refund. The filing officer shall refund an overpayment of \$24.99 or less only upon the written request of the remitter. A request for a refund shall be delivered to the filing office within 12 months from the date of payment.

2. Upon receipt of a UCC record with an insufficient filing fee, the filing officer shall return the record to the remitter with a notice stating the deficiency and shall retain the filing fee.

~~3. If a filer requests a name search at the time a UCC record is filed, the name searched will be the debtor name as set forth on the form. If the remitter furnishes the appropriate fee for filing but omits the search fee, the UCC~~

Regulations

~~record will be filed subject to 5VAC5-30-50 and the search will not be performed.~~

E. Federal liens. A notice of lien, certificate and other notice affecting a federal tax lien or other federal lien presented to the filing office pursuant to the provisions of the Uniform Federal Lien Registration Act (§55-142.1 et seq. of the Code of Virginia) shall be treated as the most analogous UCC record unless the Uniform Federal Lien Registration Act or federal law provides otherwise.

Part II

Record Requirements

5VAC5-30-50. Acceptance and refusal of records; continuation statements.

A. The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record pursuant to this chapter, the filing officer does none of the following:

1. Determine the legal sufficiency or insufficiency of a record;
2. Determine that a security interest in collateral exists or does not exist;
3. Determine that information in the record is correct or incorrect, in whole or in part; or
4. Create a presumption that information in the record is correct or incorrect, in whole or in part.

B. The first day on which a continuation statement may be filed is the day of the month corresponding to the date upon which the related financing statement would lapse in the sixth month preceding the month in which the financing statement would lapse. If there is no such corresponding date, the first day on which a continuation statement may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse. The last day on which a continuation statement may be filed is the date upon which the financing statement lapses. If the lapse date falls on a Saturday, Sunday or other day on which the filing office is not open, then the last day on which a continuation statement may be filed is the last day the filing office is open prior to the lapse date.

C. Except as provided in 5VAC5-30-40 D, if the filing officer finds grounds to refuse a UCC record, the filing officer shall return the record to the remitter and shall retain the filing fee.

D. Nothing in this chapter ~~prevents~~ shall prevent a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing officer is under no obligation to do so and may not, in fact, have the resources ~~to do so or~~ to identify

such potential defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for such effectiveness.

E. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been refused, the filing officer shall file the UCC record as provided in this chapter with a filing date and time assigned when the record was originally tendered for filing. The filing officer shall also file a filing officer statement that states the effective date and time of filing, which shall be the date and time the UCC record was originally tendered for filing.

Part III

Record Filing and Searches

5VAC5-30-60. Filing and data entry procedures.

A. The filing office may correct errors ~~of~~ made by its personnel in the UCC information management system at any time. If the correction occurs after the filing officer has issued a certification, the filing officer shall file a filing officer statement in the UCC information management system identifying the record to which it relates, the date of the correction, and explaining the nature of the corrective action taken. The record shall be preserved as long as the record of the initial financing statement is preserved in the UCC information management system.

B. An error by a filer or remitter is the responsibility of that person. It can be corrected by filing an amendment or it can be disclosed by filing a correction statement pursuant to §8.9A-518 of the Code of Virginia.

C. 1. A UCC record tendered for filing shall designate whether a name is a name of an individual or an organization. If the name is that of an individual, the first, middle and last names and any suffix shall be given.

2. Organization names are entered into the UCC information management system exactly as set forth in the UCC record, even if it appears that multiple names are set forth in the record or if it appears that the name of an individual has been included in the field designated for an organization name.

3. The filing office will only accept forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Such forms diminish the possibility of filing office error and help assure that filers' expectations are met. However, ~~filers should be aware that~~ the inclusion of names in an incorrect field or ~~failures~~ the failure to transmit names accurately to the filing office ~~might~~ may cause ~~filings a financing statement~~ to be ineffective.

D. The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding

involving a debtor named in the UCC information management system.

5VAC5-30-70. Search requests and reports.

A. The filing officer maintains for public inspection a searchable index for all UCC records of UCC documents. The index shall provide for the retrieval of all filed records by the name of the debtor and by the file number of the initial financing statement.

B. Search requests shall be made only on the National Information Request Form (Form UCC11) and shall contain the following information:

1. The name of the debtor to be searched, specifying whether the debtor is an individual or organization. A search request will be processed using the exact name provided by the requestor.
2. The name and address of the person to whom the search report is to be sent.
3. The appropriate fee shall be enclosed, payable by a method described herein.

~~C. If a filer requests a search at the time a UCC record is filed the name searched will be the debtor name as set forth on the form. The requesting party shall be the remitter of the UCC record, and the search request shall be deemed to request a search that would retrieve all financing statements filed on or prior to the date the UCC record is filed.~~

~~D. C.~~ Search requests may contain ~~any~~ of the following information:

1. A request that copies of records found in the search be included with the search report, or
2. A request to limit the copies of records by restricting the search to a locality or a filing date or a range of filing dates, ~~or~~
- ~~3.~~ 2. Instructions on the mode of delivery desired, if other than by ordinary mail, which request shall be honored if the requested mode is available to the filing office.

~~E. D.~~ Search results are produced by the application of standardized search logic to the name presented to the filing officer. The following ~~requirements~~ criteria apply to searches:

1. There is no limit to the number of matches that may be returned in response to the search ~~criteria~~ request.
2. No distinction is made between upper and lower case letters.
3. Punctuation marks and accents are disregarded.
4. "Noise words" ~~include, but are not limited to,~~ "an," "and," "for," "of," and "the." The word "the" always will be disregarded and other noise words appearing anywhere

except at the beginning of an organization name will be disregarded. Certain business words are modified to a standard abbreviation: company to "co," corporation to "corp," limited to "ltd," incorporated to "inc."

5. All spaces are disregarded.
6. After using the preceding ~~subdivisions~~ criteria to modify the name to be searched, the search will reveal names of debtors that are contained in unlapsed or all initial financing statements in an alphabetical list.

~~F. E.~~ Reports created in response to a search request shall include the following:

1. The date the report was generated.
2. Identification of the name searched.
3. Identification of each unlapsed initial financing statement or all initial financing statements filed on or prior to the report date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.
4. For each initial financing statement on the report, a listing of all related UCC records filed by the filing officer on or prior to the report date.
5. Copies of all UCC records revealed by the search and requested by the requestor.

~~G. F.~~ During the statutory transition period of July 1, 2001, to July 1, 2006, ~~the~~ The filing office may provide access to a database the searchable index via the Internet that produces search results beyond exact name matches. ~~The supplemental database shall not be considered part of the standard search logic and Search results obtained via the Internet shall not constitute an official search of and will not be certified by the filing office.~~

NOTICE: The forms used in administering 5VAC5-30, Uniform Commercial Code Filing Rules, are not being published; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

- UCC Financing Statement, Form UCC1, (rev. 5/02).
- UCC Financing Statement Addendum, Form UCC1Ad, (rev. 5/02).
- UCC Financing Statement Additional Party, Form UCC1AP, (rev. 5/02).
- UCC Financing Statement Amendment, Form UCC3, (rev. 5/02).

Regulations

[National] UCC Financing Statement Amendment Addendum, Form UCC3Ad, (rev. 7/98).

UCC Financing Statement Amendment Additional Party, Form UCC3AP, (rev. 5/02).

Correction Statement, Form UCC5, (rev. 5/04).

[National] Information Request, Form UCC11, (rev. 5/01).

VA.R. Doc. No. R07-198; Filed June 26, 2007, 1:58 p.m.

◆ ————— ◆

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF FORENSIC SCIENCE

Notice of Extension of Emergency Regulation

Title of Regulation: **6VAC40-50. Regulations for the Approval of Marijuana Field Tests for Detection of Marijuana Plant Material (adding 6VAC40-50-10 through 6VAC40-50-80).**

Statutory Authority: §19.2-188.1 of the Code of Virginia.

Effective Dates: July 1, 2006, through December 29, 2007.

The Department of Forensic Science requested an extension of the emergency regulation, 6VAC40-50, pursuant to §2.2-4011 of the Code of Virginia to allow time for the permanent regulations to complete the executive review process and the requirements of the Administrative Process Act. The emergency regulations were published in 22:23 VA.R. 3406-3407 July 24, 2006 (<http://legis.state.va.us/codecomm/register/vol22/iss23/v22i23.pdf>) with effective dates of July 1, 2006, through June 30, 2007. The Governor approved the department's request to extend the expiration date of the emergency regulations for six months as provided in §2.2-4011 D of the Code of Virginia. Therefore, the regulations will continue in effect through December 29, 2007.

Effective Date: December 29, 2007.

Agency Contact: Michele M. Gowdy, Department Counsel, Department of Forensic Science, 700 North 5th St., Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, email michelle.gowdy@dfs.virginia.gov.

VA.R. Doc. No. R06-285; Filed July 5, 2007, 11:26 a.m.

◆ ————— ◆

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

Title of Regulation: **8VAC20-160. Regulations Governing Secondary School Transcripts (amending 8VAC20-160-10, 8VAC20-160-20, 8VAC20-160-30, 8VAC20-160-40, 8VAC20-160-50, 8VAC20-160-60).**

Statutory Authority: §22.1-16 of the Code of Virginia.

Effective Date: August 27, 2007.

Agency Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, Department of Education, P.O. Box 2120, 101 N. 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

Summary:

The amendments remove the 1988-89 effective date provision, revise the definitions as necessary to comport with those in other Board of Education regulations, and revise the format options for the transcript and profile data sheets to reflect both Board of Education regulations and state law. The sections concerning class ranking, advanced placement courses and the elements of weighting are revised to ensure that they comport with best instructional practices, as well as other state requirements.

The changes made since the proposed regulations were published (i) add the definition of "Commonwealth Scholar" and "Early College Scholar" programs for clarity; (ii) move the implementation date from the 2007-2008 school year to the 2008-2009 school year to give school divisions additional time to make changes to their transcripts and electronic systems to comply with the regulations; (iii) add language to clarify that divisions may use electronic transcript transmission; (iv) add language to clarify that the test record shall include results of the highest score earned if the test score is available to the school; and (v) add language to clarify that the list of verified credits shall include any credits earned by substitution.

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.

8VAC20-160-10. Definitions.

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

"Accelerated course" means a course that can be completed in less than the normal amount of time; the process of progressing through the school grades at a rate faster than that

of the average student, either by skipping grades or by rapidly mastering the work of one course and moving on to the next higher course.

~~"Advanced course" means a course that presents material and concepts beyond the introductory or the elementary; a course that carries on from an introductory or elementary course given in the same school.~~

"Advanced-level courses/programs" means those academic, career/technical, fine and performing arts, or interdisciplinary high school courses/programs that enable students to acquire and master advanced knowledge. Such courses may be suitable for weighted credit in order to encourage students to take these courses and to be rewarded for the extra endeavor and academic performance these courses/programs require.

~~"Advanced placement Placement (AP) course" means a an advanced-level course with a syllabus equivalent to the relevant advanced placement Advanced Placement syllabus disseminated by the Educational Testing Service College Board.~~

"Assessment component" means any of the means by which one obtains information on the progress of the learner and the effectiveness of instruction; quantitative data, objective measures, subjective impressions, tests, and observations may all serve as instruments for deciding whether instructional objectives have been attained.

"Certificate of Program Completion award date" means the date when a Certificate of Program Completion is awarded. A Certificate of Program Completion is not to be included as a diploma option.

"Commonwealth College Course Collaborative (CCCC)" means a set of approved courses taken in high school that fully transfer as core requirements and degree credits at Virginia colleges and universities.

["Commonwealth Scholar" means a student who completes all of the requirements for at least a Standard Diploma and additional prescribed rigorous coursework in foreign language, history, mathematics, science, and other approved discipline areas consistent with the United States Department of Education's State Scholars Initiative.]

"Credit" means a standard or a verified credit as specified in Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131).

"Credit summary" means the number of courses successfully completed in each discipline as required for graduation.

"Curriculum" means an official guide prepared for use by administrators, supervisors, and teachers of a particular school or school system as an aid to teaching in a given subject or area of study for a given grade; includes the goals and objectives of the course, the expected outcomes,

assessment component, and the scope and nature of the materials to be studied.

"Dual enrollment course" means a course that carries both high school and college credit.

["Early College Scholar" means a student who signs the Early College Scholars agreement and completes the requirements of the program, which includes a prescribed number of potentially transferable college credits, maintaining a "B" average or better, and earning an Advanced Studies diploma.]

"Grade point average" means a measure of average scholastic success in all ~~school subjects~~ high school credit-bearing courses taken by a student during a certain term or semester, or accumulated for several terms or semesters; obtained by dividing grade points by ~~hours~~ number of course work courses taken.

"Graduation date" means the date when diploma requirements have been met and a diploma is awarded.

~~"Honors course" means a course, at the high school level, that limits enrollment to exceptionally capable students; provides for independent or tutorial work, places the responsibility for student progress more on the student than on the teachers, emphasizes reading and self-instruction offered to academically advanced students to provide opportunities to study and learn with other advanced students and to accelerate their learning in a specific content area. These courses are designed to be more challenging by covering additional topics or some topics in greater depth.~~

"Industry certification credential" means a career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, a state-issued professional license, or an occupational competency examination.

"International Baccalaureate (IB) course" means an advanced-level course with a syllabus approved by the International Baccalaureate Organization (IBO) and meeting the criteria offered through the IBO program.

~~"Secondary course" means a course of study planned especially for people of ages approximately 12 to 17, in which the emphasis tends to shift from mastery of basic tools of learning, expression, and understanding to the use and extension of the tools in exploring areas of thought and living, and in exploring and acquiring information, concepts, intellectual skills, attitudes, social, physical, and intellectual ideas, and habits, understanding, and appreciation high school-level course of study that awards high school credits [to meet graduation requirements] . In addition to providing content and knowledge, secondary courses encourage students to develop higher level thinking skills such as problem solving, critical analyses and syntheses of ideas. Students are encouraged to understand, appreciate, and~~

Regulations

formulate ideas related to scientific, technical and social concepts.

"Secondary school profile data" means information given in a summary format of a particular secondary school, such as location; description; achievement data; definition of curriculum; grading scale, grade distribution; weighted grades; rank in class, if a ranking procedure is used; graduation requirements; and an explanation of advanced-level, accelerated, ~~advanced placement~~, and honors courses, industry certifications, and other specialized programs.

"Secondary school transcript" means an official list of secondary courses taken by a student, except those purged from a middle school record in accordance with 8VAC20-131, Regulations Establishing Standards for Accrediting Public Schools in Virginia, showing the final grade received for each course, with definitions of the various grades given.

"Weighted course" means ~~advanced placement, advanced or honors level courses~~ an advanced-level course in which credit is increased usually by reason of quality of work accomplished as determined by local school board policies and defined on the school profile.

Part II

General Regulations

8VAC20-160-20. Effective date.

The secondary school transcript regulations shall become effective ~~with seventh grade~~ for students who take secondary courses for credit beginning in the 1988-89 school year [2007-2008 2008-2009] .

8VAC20-160-30. Format options.

Localities have ~~two~~ options for the secondary school transcript format. They may use the Department of Education model or develop their own following board regulations. ~~Transcripts developed locally shall be approved by the Department of Education. No standard format is required.~~ Localities may also use a digital data exchange format for electronic transcript transmission [at such time as one is adopted by the Department of Education] . The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers.

The required information is as follows:

1. Name of school division;
2. Student legal name;
3. ~~Student number~~ State Testing Identifier (STI);
4. Birthdate;
5. ~~Sex~~ Gender;
6. Home address;
7. Home telephone number;

8. Graduation date;

9. Type of diploma, to include "Advanced Studies," "Standard," or "Other Diplomas Authorized by the Board of Education";

10. Type of industry certification credential and date of completion, if applicable;

11. Certificate of Program Completion and award date, if applicable;

12. Notation of Early College Scholar Designation;

[13. Notation of Commonwealth Scholar Designation;]

~~10.~~ [~~13.~~ 14.] Name, address, [email address,] and telephone number of schools student attended each year;

~~11.~~ [~~14.~~ 15.] Number of days absent within given school year;

~~12.~~ [~~15.~~ 16.] Course work listed by year with grades;

~~13.~~ [~~16.~~ 17.] Total credits earned by year;

~~14.~~ [~~17.~~ 18.] Total A list of verified credits earned [, including any credits earned by substitution] ;

~~15.~~ [~~18.~~ 19.] Credits to date;

~~16.~~ [~~19.~~ 20.] Grade point average;

~~17.~~ [~~20.~~ 21.] Credit summary for entire school experience;

~~18.~~ [~~21.~~ 22.] Key to symbols and abbreviations used to denote accelerated, advanced-level courses, ~~advanced placement~~ Commonwealth College Course Collaborative course, honors courses, and summer school courses [, or credits earned by substitution] ;

~~19.~~ Rank [~~22.~~ 23.] Notification of whether school/program ranks students; if so, the rank in class with given number of semesters used for computation;

~~20.~~ [~~23.~~ 24.] Final driver education grade;

~~21.~~ [~~24.~~ 25.] Test record, to include results [at least the] highest score earned [, if applicable,] on college performance-related standardized tests such as ~~College Entrance Examination Board or equivalent~~ SAT and ACT, excluding Standards of Learning (SOL) test scores;

~~22.~~ [~~25.~~ 26.] Signature and title of school official;

~~23.~~ [~~26.~~ 27.] Date of school official signature;

~~24.~~ [~~27.~~ 28.] School name;

[~~28.~~ 29.] School address;

~~25.~~ [~~29.~~ 30.] Telephone number of school;

[~~30.~~ 31.] Fax number of school;

~~26.~~ [~~31.~~ 32.] The school's Department of Education 7-digit code number.

8VAC20-160-40. Profile data sheet.

A secondary school profile data sheet, ~~that includes the required information, for each school reflected on the transcript [, if applicable,]~~ shall be attached to each student transcript sent to colleges, universities, and prospective employers. Schools may furnish additional information. The accreditation status of a high school shall not be included on the school profile data sheet. No standard format is required. ~~The required information is as follows~~ profile data sheet must contain the following information:

1. Name of ~~guidance~~ school counseling director or school counselor;
2. Name, address, and telephone number of school;
3. Description - school/community;
4. Achievement data to include ~~College Entrance Examination Board/Scholastic Aptitude Test code, mean Scholastic Aptitude Test score for the graduating class, average Scholastic Aptitude Test/American College Test scores for the school~~ SAT and/or ACT scores using the most recent data available in comparison with Virginia and the nation;
5. ~~Definition~~ Description of curriculum;
6. Grading scale;
7. Grade distribution;
8. Explanation of ~~advanced-placement~~, advanced-level, accelerated, and honors courses;
9. Weighted grades, explanation of weighting courses and the computation;
10. ~~Rank~~ Explanation of rank in class, if applicable:
 - a. List courses excluded from computation;
 - b. Explanation of computation of pass/fail courses;
 - c. Student groups included/excluded from ranking in class;
11. Graduation requirements.

8 VAC 20-160-50. AP Weight of advanced-level courses.

~~All advanced placement (AP) courses shall be weighted for computing the student's grade point average. Advanced Placement (AP) and International Baccalaureate (IB) courses shall be weighted. Local school boards shall determine which other courses/programs are to receive weighted credits, the amount of weight such courses shall receive, and how those weighted credits will be used in the determination of grade point averages in the school or school division.~~

8VAC20-160-60. Elements for weighting.

~~Advanced, accelerated, advanced placement, and honors level courses~~ If the course is to be weighted shall, it must have the following elements:

1. ~~Defined~~ Specified curriculum approved by local board or outside agency meeting criteria of program and/or organization;
2. Standards that exceed normal course requirements; and
3. Defined assessment component.

VA.R. Doc. No. R06-111; Filed June 29, 2007, 1:14 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Fast-Track Regulation

Title of Regulation: **9VAC25-720. Water Quality Management Planning Regulation - Skyline Swannanoa (amending 9VAC25-720-50).**

Statutory Authority: §62.1-44.15 of the Code of Virginia; 33 USC §1313(e) of the Clean Water Act.

Public Hearing Information:

August 30, 2007 – 1:30 p.m. – Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA

Public Comments: Public comments may be submitted until 5 p.m. on September 21, 2007.

Effective Date: October 22, 2007.

Agency Contact: Charles H. Martin, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4462, FAX (804) 698-4116, email chmartin@deq.virginia.gov.

Basis: Section 62.1-44.15 of the Code of Virginia is the source of legal authority identified to promulgate these amendments. The scope and purpose of the State Water Control Law is to protect and restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and reduce pollution, and to promote water conservation. Section 62.1-44.15 (10) of the Code of Virginia mandates the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth. In addition, §62.1-44.15 (14) requires the board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of this chapter. The specific effluent limits needed to meet the water quality goals are discretionary.

Regulations

The correlation between the proposed regulatory action and the legal authority identified above is that the amendment being considered will result in a modified waste load allocation that has been shown to be protective of water quality and that will contribute to the attainment of the Virginia Water Quality Standards.

Purpose: The amendment is needed to reflect the water quality based effluent limit that was recently developed for the Skyline Swannanoa STP. It represents an allocation of BOD₅ that is available due to the cessation of discharge by two other facilities from this portion of the South River. This allocation has been shown to be protective of water quality.

Rationale for Using Fast-Track Process: The proposed amendment is expected to be noncontroversial, and therefore justifies using the fast-track process. The amendment will reflect effluent limitations outlined in the current VPDES permit that have been shown to be protective of water quality for the South River. The current VPDES permit for the Skyline Swannanoa STP was reissued on June 26, 2006. Prior to reissuance, the permit was reviewed by EPA and public notice with all public comment issues addressed.

Substance: In 9VAC25-720-50 B, add Skyline Swannanoa STP, outfall 001, located in VAV-B32R on a South River UT at river mile 2.96 with a BOD₅ limit of 8.5 kg/d.

Issues: The public will benefit, as these amendments will ensure the attainment and preservation of water quality standards in the South River downstream of the Skyline Swannanoa STP discharge. There is no disadvantage to the agency or the Commonwealth that will result from the adoption of these amendments.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The State Water Control Board (Board) proposes to add a 5-day Biochemical Oxygen Demand (BOD₅) waste load allocation for the Skyline Swannanoa Sewage Treatment Plant to reflect the effluent limits outlined in the facility's Virginia Pollutant Discharge Elimination System (VPDES) permit. The current Water Quality Management Planning Regulation and the previous VPDES permit do not specify the BOD₅ limits for the facility due to the use of an old model which did not consider the facility's discharge to an unnamed tributary with the South River. The effluent limits outlined in the current VPDES permit were reviewed by EPA and have been shown to be protective of water quality for the South River. The public was noticed of the permit and all public comment issues were addressed.

Results of Analysis. The proposed regulation will likely not have any economic impact.

Estimated Economic Impact. The Board proposes to add a 5-day Biochemical Oxygen Demand (BOD₅) waste load

allocation for the Skyline Swannanoa Sewage Treatment Plant (STP) to reflect the effluent limits outlined in the facility's VPDES permit. When the previous permit was developed, the original stream model utilized did not consider the potential residual oxygen demand at the confluence of the unnamed tributary with the South River. As a result, the current Water Quality Management Planning Regulation and the previous VPDES permit do not specify the BOD₅ limits for the facility. The current VPDES permit for Skyline Swannanoa STP was re-issued on June 6, 2006 with an effective date of June 26, 2006 and has included the effluent limits for the facility based on the DEQ 2006 Regional Stream Model that has considered the facility's discharge to the unnamed tributary of the South River. Once approved, the Skyline Swannanoa STP will be limited to a BOD₅ waste load allocation of 8.5 kilogram/day (kg/d).

According to the Department of Environment Quality (DEQ), the addition of the BOD₅ waste load allocation has used about one-eighth of the un-allocated BOD₅ waste load allocation in the South River due to the cessation of discharge of two facilities – Crompton-Shenandoah that ceased discharging in 1984 and Wayn-Tex that ceases discharging in 1992. The effluent limits in the current VPDES permit were reviewed by EPA and have been shown to be protective of water quality for the South River. The public was noticed of the permit and all public comment issues were addressed. Since the facility has been discharging according to the effluent limits outlined in the current VPDES permit, incorporation of the permit limits into the current Water Quality Management Planning Regulation will likely not have any impact except for clarification.

Businesses and Entities Affected. The proposed amendment concerns the Skyline Swannanoa STP.

Localities Particularly Affected

The proposed regulation will particularly affect Skyline Swannanoa Inc., the owner of the Skyline Swannanoa STP.

Projected Impact on Employment. The proposed amendment will likely not have any impact on employment.

Effects on the Use and Value of Private Property. The proposed amendment will likely not have any impact on the use or value of private property.

Small Businesses: Costs and Other Effects. According to DEQ, Skyline Swannanoa STP is a small business. The proposed action will incorporate into the current regulation the effluent limits outlined in the facility's current VPDES permit. Since the facility has been discharging according to the effluent limits outlined in the current VPDES permit, the proposed regulation will likely not have any significant impact on the facility.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses will likely not be adversely affected by the proposed regulation.

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 department has

reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendment adds a BOD₅ waste load allocation for the Skyline Swannanoa STP (VA0028037). The VPDES permit for this facility was reissued June 26, 2006. At the time of permit development, it was determined that the original stream model (8/6/74) utilized did not consider the potential for any residual oxygen demand at the confluence of the unnamed tributary with the South River. In-stream water quality conditions on this section of the South River were subsequently predicted by the EPA Stream Model for South River in the Vicinity of Waynesboro, Virginia, dated 1976, reverified 1984 and reviewed in 1990. This model had been used previously to allocate BOD₅ to four dischargers on this section of the South River (Waynesboro STP, Crompton-Shenandoah, Wayn-Tex and DuPont (now INVISTA)). Crompton-Shenandoah ceased discharging in 1984 and Wayn-Tex ceased discharging in 1992. These two facilities were removed from Part B of the Potomac-Shenandoah Water Quality Management Planning regulation when it was revised and adopted by the State Water Control Board on September 28, 2005. This leaves a portion of unallocated BOD₅ waste load allocation in the South River. Based on this available waste load allocation and the verification model, the limits outlined in this regulatory action were demonstrated to be protective of water quality conditions in the South River.

9VAC25-720-50. Potomac-Shenandoah River Basin.

A. Total Maximum Daily Load (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA	Units
1.	Muddy Creek	Nitrate TMDL Development for Muddy Creek/Dry River, Virginia	Rockingham	B21R	Nitrate	49,389.00	LB/YR
2.	Blacks Run	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	32,844.00	LB/YR
3.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	69,301.00	LB/YR
4.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Phosphorus	0	LB/YR
5.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Sediment	286,939.00	LB/YR
6.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Phosphorus	38.00	LB/YR
7.	Holmans	TMDL Development for Muddy	Rockingham/	B45R	Sediment	78,141.00	LB/YR

Regulations

	Creek	Creek and Holmans Creek, Virginia	Shenandoah				
8.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Sediment	276.00	LB/YR
9.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Phosphorus	138.00	LB/YR
10.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Sediment	0.00	LB/YR
11.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Phosphorus	0.00	LB/YR
12.	Linville Creek	Total Maximum Load Development for Linville Creek: Bacteria and Benthic Impairments	Rockingham	B46R	Sediment	5.50	TONS/YR
13.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Ammonia	7,185.00	KG/YR
14.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Chlorine	27.63	KG/YR
15.	Shenandoah River	Development of Shenandoah River PCB TMDL (South Fork and Main Stem)	Warren & Clarke	B41R B55R B57R B58R	PCBs	179.38	G/YR
16.	Shenandoah River	Development of Shenandoah River PCB TMDL (North Fork)	Warren & Clarke	B51R	PCBs	0.00	G/YR
17.	Shenandoah River	Development of Shenandoah River PCB TMDL (Main Stem)	Warren & Clarke	WV	PCBs	179.38	G/YR
18.	Cockran Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Augusta	B10R	Organic Solids	1,556.00	LB/YR
19.	Lacey Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Rockingham	B47R	Organic Solids	680.00	LB/YR
20.	Orndorff Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Shenandoah	B52R	Organic Solids	103.00	LB/YR
21.	Toms Brook	Benthic TMDL for Toms Brook in Shenandoah County, Virginia	Shenandoah	B50R	Sediment	8.1	T/YR
22.	Goose Creek	Benthic TMDLs for the Goose Creek Watershed	Loudoun, Fauquier	A08R	Sediment	1,587	T/YR
23.	Little River	Benthic TMDLs for the Goose Creek Watershed	Loudoun	A08R	Sediment	105	T/YR
24.	Christians Creek	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B14R	Sediment	145	T/YR
25.	Moffett	Fecal Bacteria and General	Augusta	B13R	Sediment	0	T/YR

	Creek	Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA						
26.	Upper Middle River	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B10R	Sediment	1.355	T/YR	
27.	Mossy Creek	Total Maximum Daily Load Development for Mossy Creek and Long Glade Run: Bacteria and General Standard (Benthic) Impairments	Rockingham	B19R	Sediment	0.04	T/YR	
28.	Smith Creek	Total Maximum Daily Load (TMDL) Development for Smith Creek	Rockingham, Shenandoah	B47R	Sediment	353,867	LB/YR	
29.	Abrams Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke counties, Virginia	Frederick	B09R	Sediment	478	T/YR	
30.	Lower Opequon Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke counties, Virginia	Frederick, Clarke	B09R	Sediment	1,039	T/YR	
31.	Mill Creek	Mill Creek Sediment TMDL for a Benthic Impairment, Shenandoah County, Virginia	Shenandoah	B48R	Sediment	0.9	T/YR	
32.	South Run	Benthic TMDL Development for South Run, Virginia	Fauquier	A19R	Phosphorus	0.038	T/YR	
33.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Sediment	40	T/YR	
34.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Lead	0	KG/YR	
35.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	PAHs	0	KG/YR	

B. Non-TMDL waste load allocations.

Water Body	Permit No.	Facility Name	Outfall No.	Receiving Stream	River Mile	Parameter Description	WLA	Units WLA
VAV-B02R	VA0023281	Monterey STP	001	West Strait Creek	3.85	CBOD ₅	11.4	KG/D
VAV-B08R	VA0065552	Opequon Water Reclamation	001	Opequon Creek	32.66	BOD ₅ , JUN-NOV	207	KG/D

Regulations

		Facility						
		AKA Winchester – Frederick Regional				CBOD ₅ , DEC-MAY	1514	KG/D
VAV-B14R	VA0025291	Fishersville Regional STP	001	Christians Creek	12.36	BOD ₅	182	KG/D
VAV-B23R	VA0060640	North River WWTF	001	North River	15.01	CBOD ₅ , JAN-MAY	1030	KG/D
	7.23.04	AKA Harrisonburg – Rockingham Reg. Sewer Auth.				CBOD ₅ , JUN-DEC	606	KG/D
						TKN, JUN-DEC	303	KG/D
						TKN, JAN-MAY	545	KG/D
VAV-B32R	VA0002160	INVISTA - Waynesboro Formerly Dupont - Waynesboro	001	South River	25.3	BOD ₅	272	KG/D
VAV-B32R	VA0025151	Waynesboro STP	001	South River	23.54	CBOD ₅ CBOD ₅ , JUN-OCT	227 113.6	KG/D KG/D
<u>VAV-B32R</u>	<u>VA0028037</u>	<u>Skyline Swannanoa STP</u>	<u>001</u>	<u>South River UT</u>	<u>2.96</u>	<u>BOD₅</u>	<u>8.5</u>	<u>KG/D</u>
VAV-B35R	VA0024732	Massanutten Public Service STP	001	Quail Run	5.07	BOD ₅	75.7	KG/D
VAV-B37R	VA0002178	Merck & Company	001	S.F. Shenandoah River	88.09	BOD ₅ AMMONIA, AS N	1570 645.9	KG/D KG/D
VAV-B49R	VA0028380	Stoney Creek Sanitary District STP	001	Stoney Creek	19.87	BOD ₅ , JUN-NOV	29.5	KG/D
VAV-B53R	VA0020982	Middletown STP	001	Meadow Brook	2.19	CBOD ₅	20.8	KG/D
VAV-B58R	VA0020532	Berryville STP	001	Shenandoah River	24.23	CBOD ₅	42.6	KG/D

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers and the total nitrogen and total phosphorus waste load allocations for the listed facilities.

Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)
B37R	Coors Brewing Company	VA0073245	54,820	4,112
B14R	Fishersville Regional STP	VA0025291	48,729	3,655
B32R	INVISTA - Waynesboro (Outfall 101)	VA0002160	78,941	1,009
B39R	Luray STP	VA0062642	19,492	1,462
B35R	Massanutten PSA STP	VA0024732	18,273	1,371

Regulations

B37R	Merck - Stonewall WWTP (Outfall 101)	VA0002178	14,619	1,096
B12R	Middle River Regional STP	VA0064793	82,839	6,213
B23R	North River WWTF (2)	VA0060640	253,391	19,004
B22R	VA Poultry Growers -Hinton	VA0002313	27,410	1,371
B38R	Pilgrims Pride - Alma	VA0001961	18,273	914
B31R	Stuarts Draft WWTP	VA0066877	48,729	3,655
B32R	Waynesboro STP	VA0025151	48,729	3,655
B23R	Weyers Cave STP	VA0022349	6,091	457
B58R	Berryville STP	VA0020532	8,528	640
B55R	Front Royal STP	VA0062812	48,729	3,655
B49R	Georges Chicken LLC	VA0077402	31,065	1,553
B48R	Mt. Jackson STP (3)	VA0026441	8,528	640
B45R	New Market STP	VA0022853	6,091	457
B45R	North Fork (SIL) WWTF	VA0090263	23,390	1,754
B49R	Stoney Creek SD STP	VA0028380	7,309	548
B50R	North Fork Regional WWTP (1)	VA0090328	9,137	685
B51R	Strasburg STP	VA0020311	11,939	895
B50R	Woodstock STP	VA0026468	24,364	1,827
A06R	Basham Simms WWTF (4)	VA0022802	18,273	1,371
A09R	Broad Run WRF (5)	VA0091383	134,005	3,350
A08R	Leesburg WPCF	MD0066184	121,822	9,137
A06R	Round Hill Town WWTF	VA0026212	9,137	685
A25R	DSC - Section 1 WWTF (6)	VA0024724	42,029	2,522
A25R	DSC - Section 8 WWTF (7)	VA0024678	42,029	2,522
A25E	H L Mooney WWTF	VA0025101	219,280	13,157
A22R	UOSA - Centreville	VA0024988	1,315,682	16,446
A19R	Vint Hill WWTF (8)	VA0020460	8,680	868
B08R	Opequon WRF	VA0065552	102,336	7,675
B08R	Parkins Mills STP (9)	VA0075191	60,911	4,568
A13E	Alexandria SA WWTF	VA0025160	493,381	29,603
A12E	Arlington County Water PCF	VA0025143	365,467	21,928
A16R	Noman M Cole Jr PCF	VA0025364	612,158	36,729
A12R	Blue Plains (VA Share)	DC0021199	581,458	26,166
A26R	Quantico WWTF	VA0028363	20,101	1,206
A28R	Aquia WWTF	VA0060968	73,093	4,386
A31E	Colonial Beach STP	VA0026409	18,273	1,827
A30E	Dahlgren WWTF	VA0026514	9,137	914
A29E	Fairview Beach	MD0056464	1,827	183
A30E	US NSWC-Dahlgren WWTF	VA0021067	6,578	658
A31R	Purkins Corner STP	VA0070106	1,096	110

Regulations

TOTALS:	5,156,169	246,635
---------	-----------	---------

NOTE: (1) Shenandoah Co. - North Fork Regional WWTP waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by December 31, 2010, the WLAs will be deleted and facility removed from Significant Discharger List.

(2) Harrisonburg-Rockingham Regional S.A.-North River STP: waste load allocations (WLAs) based on a design flow capacity of 20.8 million gallons per day (MGD). If plant is not certified to operate at 20.8 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 194,916 lbs/yr; TP = 14,619 lbs/yr, based on a design flow capacity of 16.0 MGD.

(3) Mount Jackson STP: waste load allocations (WLAs) based on a design flow capacity of 0.7 million gallons per day (MGD). If plant is not certified to operate at 0.7 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,309 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(4) Purcellville-Basham Simms STP: waste load allocations (WLAs) based on a design flow capacity of 1.5 million gallons per day (MGD). If plant is not certified to operate at 1.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 12,182 lbs/yr; TP = 914 lbs/yr, based on a design flow capacity of 1.0 MGD.

(5) Loudoun Co. S.A.-Broad Run WRF: waste load allocations (WLAs) based on a design flow capacity of 11.0 million gallons per day (MGD). If plant is not certified to operate at 11.0 MGD design flow capacity by December 31,

2010, the WLAs will decrease to TN = 121,822 lbs/yr; TP = 3,046 lbs/yr, based on a design flow capacity of 10.0 MGD.

(6) Dale Service Corp.-Section 1 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(7) Dale Service Corp.-Section 8 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(8) Fauquier Co. W&SA-Vint Hill STP: waste load allocations (WLAs) based on a design flow capacity of 0.95 million gallons per day (MGD). If plant is not certified to operate at 0.95 MGD design flow capacity by December 31,

2010, the WLAs will decrease to TN = 5,482 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(9) Parkins Mill STP: waste load allocations (WLAs) based on a design flow capacity of 5.0 million gallons per day (MGD). If plant is not certified to operate at 5.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD.

VA.R. Doc. No. R07-291; Filed June 28, 2007, 12:46 p.m.

Fast-Track Regulation

Title of Regulation: 9VAC25-720. **Water Quality Management Planning Regulation - North River (amending 9VAC25-720-50).**

Statutory Authority: §62.1-44.15 of the Code of Virginia; 33 USC §1313(e) of the Clean Water Act.

Public Hearing Information:

August 30, 2007 – 1:30 p.m. – Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA

Public Comments: Public comments may be submitted until 5 p.m. on September 21, 2007.

Effective Date: October 22, 2007.

Agency Contact: Charles H. Martin, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4462, FAX (804) 698-4116, email chmartin@deq.virginia.gov.

Basis: Section 62.1-44.15 of the Code of Virginia is the source of legal authority identified to promulgate these amendments. The scope and purpose of the State Water Control Law is to protect and to restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and to reduce pollution and to promote water conservation. Section 62.1-44.15 (10) of the Code of Virginia mandates the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth. In addition, §62.1-44.15 (14) requires the board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of this chapter. The specific effluent limits needed to meet the water quality goals are discretionary.

The correlation between the proposed regulatory action and the legal authority identified above is that the amendment being considered will result in a modified waste load allocation that has been shown to be protective of water quality and that will contribute to the attainment of the Virginia Water Quality Standards.

Purpose: The amendments are needed to allow for the planned expansion of the North River WWTF while ensuring that the expanded discharge remains protective of water

quality in the receiving stream North River. The modified waste load allocations reflect limits for CBOD₅ and TKN that are protective of water quality at the expanded flow tiers.

Rationale for Using Fast-Track Process: The proposed amendments are expected to be non-controversial, and therefore justify using the fast-track process. The amendments will reflect effluent limitations outlined in the current VPDES permits at various flow tiers and have been shown to be protective of water quality for North River downstream of the North River WWTF. The current VPDES permit was issued with the original WQMP limits, with the revised effluent limits outlined as available to the facility once the WQMP is amended. The permit was reviewed by EPA and public noticed with all public comment issues addressed. The permit's effective date was September 11, 2006.

Substance: In 9VAC25-720-50 B, for the North River WWTF (VA0060640), change the CBOD₅, Jan-May waste load allocation from 1030 kg/d to 700 kg/d and the CBOD₅, Jun-Dec waste load allocation from 606 kg/d to 800 kg/d.

In 9VAC25-720-50 B, for the North River WWTF (VA0060640), change the TKN, Jun-Dec waste load allocation from 303 kg/d to 420 kg/d and the TKN, Jan-May waste load allocation from 545 kg/d to 850 kg/d.

Issues: The public will benefit, as these amendments will ensure the attainment and preservation of water quality standards in the North River downstream of the North River WWTF discharge. There is no disadvantage to the agency or the Commonwealth that will result from the adoption of these amendments.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The State Water Control Board (Board) proposes to amend the seasonal 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅) limits and Total Kjeldahl Nitrogen (TKN) limits for the North River Wastewater Treatment Facility (WWTF). The revised limits were outlined in the current Virginia Pollutant Discharge Elimination System (VPDES) permit as available to the facility once the Water Quality Management Planning Regulation is amended. The permit was reviewed by EPA and has been shown to be protective of water quality for North River downstream of the North River WWTF. The public was noticed with all public comment issues addressed.

Results 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. The Board proposes to amend the seasonal CBOD₅ and TKN limits for the North River WWTF in the current Water Quality Management Planning

Regulation. The revised limits were outlined in the current VPDES permit as available to the facility once the current regulation is amended. Once approved, the CBOD₅ (January-May) waste load allocation for the facility will be reduced from 1030 kilogram/day (kg/d) to 700 kg/d. The CBOD₅ (June-December) waste load allocation for the facility will be increased from 606 kg/d to 800 kg/d. The TKN (June-December) and TKN (January-May) waste load allocations will be increased from 303 kg/d to 420 kg/d and 545 kg/d to 850 kg/d, respectively. The revised permit limits will accommodate an expansion of capacity from 22 million gallons per day (MGD)⁽¹⁾ to 28 MGD.

The proposed amendment will likely benefit the North River WWTF in that the facility will be able to expand and upgrade its capacity. On the other hand, the proposed amendment may increase the actual discharges to the North River downstream of the North River WWTF. According to DEQ, the current VPDES permit, with the revised effluent limits outlined as available to the facility once the regulation is amended, was reviewed by EPA and has been shown to be protective of water quality for North River downstream of the North River WWTF. The public has been noticed of the permit and all public comment issues have been addressed. Therefore, the proposed amendment will likely not have any significant adverse impact on public health or the environment.

Businesses and Entities Affected. The proposed regulation will affect the North River WWTF.

Localities Particularly Affected. The proposed regulation will particularly affect members of the Harrisonburg-Rockingham Regional Sewer Authority including City of Harrisonburg, Town of Dayton, Town of Bridgewater, Town of Mt. Crawford, and Rockingham County.

Projected Impact on Employment. The proposed amendment will likely have a positive impact on the number of people employed by the North River WWTF due to the facility's ability to operate at its expanded capacity.

Effects on the Use and Value of Private Property. The North River WWTF is a public-owned facility. The proposed regulation will likely not have any significant impact on the use and value of private property.

Small Businesses: Costs and Other Effects. No small businesses will be affected.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses will be affected

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

Regulations

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.

[1] According to the Department of Environmental Quality, the current design flow of the facility is 16 MGD.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The department has

reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The Harrisonburg-Rockingham Regional Sewer Authority has plans to expand and upgrade its facility on the North River, a tributary to the South Fork Shenandoah River. The seasonal CBOD₅ and TKN limits for the North River WWTF (VA0060640) are proposed for modification to reflect waste load allocations that have been shown to be protective of water quality at the 28 MGD flow tier. The current section of the Water Quality Management Planning Regulation was adopted by the State Water Control Board at its September 28, 2005, meeting. As expressed in the regulation, the North River WWTF is limited to a CBOD₅ (Jan-May) waste load allocation of 1030 kg/d and CBOD₅ (Jun-Dec) of 606 kg/d. The facility is also limited to a TKN (Jun-Dec) waste load allocation of 303 kg/d and TKN (Jan-May) of 545 kg/d. During the permit reissuance process, the discharge was remodeled using the QUAL2E model because critical flows in North River had decreased and additional flow tiers were requested. The limits outlined in this regulatory action were demonstrated to be protective of water quality conditions in the North River downstream of the facility's discharge.

9VAC25-720-50. Potomac-Shenandoah River Basin.

A. Total Maximum Daily Load (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA	Units
1.	Muddy Creek	Nitrate TMDL Development for Muddy Creek/Dry River, Virginia	Rockingham	B21R	Nitrate	49,389.00	LB/YR
2.	Blacks Run	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	32,844.00	LB/YR
3.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	69,301.00	LB/YR
4.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Phosphorus	0	LB/YR
5.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Sediment	286,939.00	LB/YR
6.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Phosphorus	38.00	LB/YR
7.	Holmans Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham/Shenandoah	B45R	Sediment	78,141.00	LB/YR
8.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Sediment	276.00	LB/YR

Regulations

9.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Phosphorus	138.00	LB/YR
10.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Sediment	0.00	LB/YR
11.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Phosphorus	0.00	LB/YR
12.	Linville Creek	Total Maximum Load Development for Linville Creek: Bacteria and Benthic Impairments	Rockingham	B46R	Sediment	5.50	TONS/YR
13.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Ammonia	7,185.00	KG/YR
14.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Chlorine	27.63	KG/YR
15.	Shenandoah River	Development of Shenandoah River PCB TMDL (South Fork and Main Stem)	Warren & Clarke	B41R B55R B57R B58R	PCBs	179.38	G/YR
16.	Shenandoah River	Development of Shenandoah River PCB TMDL (North Fork)	Warren & Clarke	B51R	PCBs	0.00	G/YR
17.	Shenandoah River	Development of Shenandoah River PCB TMDL (Main Stem)	Warren & Clarke	WV	PCBs	179.38	G/YR
18.	Cockran Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Augusta	B10R	Organic Solids	1,556.00	LB/YR
19.	Lacey Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Rockingham	B47R	Organic Solids	680.00	LB/YR
20.	Orndorff Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Shenandoah	B52R	Organic Solids	103.00	LB/YR
21.	Toms Brook	Benthic TMDL for Toms Brook in Shenandoah County, Virginia	Shenandoah	B50R	Sediment	8.1	T/YR
22.	Goose Creek	Benthic TMDLs for the Goose Creek Watershed	Loudoun, Fauquier	A08R	Sediment	1,587	T/YR
23.	Little River	Benthic TMDLs for the Goose Creek Watershed	Loudoun	A08R	Sediment	105	T/YR
24.	Christians Creek	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B14R	Sediment	145	T/YR
25.	Moffett Creek	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B13R	Sediment	0	T/YR

Regulations

26.	Upper Middle River	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B10R	Sediment	1.355	T/YR
27.	Mossy Creek	Total Maximum Daily Load Development for Mossy Creek and Long Glade Run: Bacteria and General Standard (Benthic) Impairments	Rockingham	B19R	Sediment	0.04	T/YR
28.	Smith Creek	Total Maximum Daily Load (TMDL) Development for Smith Creek	Rockingham, Shenandoah	B47R	Sediment	353,867	LB/YR
29.	Abrams Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke counties, Virginia	Frederick	B09R	Sediment	478	T/YR
30.	Lower Opequon Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke counties, Virginia	Frederick, Clarke	B09R	Sediment	1,039	T/YR
31.	Mill Creek	Mill Creek Sediment TMDL for a Benthic Impairment, Shenandoah County, Virginia	Shenandoah	B48R	Sediment	0.9	T/YR
32.	South Run	Benthic TMDL Development for South Run, Virginia	Fauquier	A19R	Phosphorus	0.038	T/YR
33.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Sediment	40	T/YR
34.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Lead	0	KG/YR
35.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	PAHs	0	KG/YR

B. Non-TMDL waste load allocations.

Water Body	Permit No.	Facility Name	Outfall No.	Receiving Stream	River Mile	Parameter Description	WLA	Units WLA
VAV-B02R	VA0023281	Monterey STP	001	West Strait Creek	3.85	CBOD ₅	11.4	KG/D
VAV-B08R	VA0065552	Opequon Water Reclamation Facility	001	Opequon Creek	32.66	BOD ₅ , JUN-NOV	207	KG/D
		AKA Winchester – Frederick Regional				CBOD ₅ , DEC-MAY	1514	KG/D
VAV-	VA0025291	Fishersville	001	Christians	12.36	BOD ₅	182	KG/D

Regulations

B14R		Regional STP		Creek				
VAV-B23R	VA0060640	North River WWTF	001	North River	15.01	CBOD ₅ , JAN-MAY	1030 700	KG/D
	7.23.04	AKA Harrisonburg – Rockingham Reg. Sewer Auth.				CBOD ₅ , JUN-DEC	606 800	KG/D
						TKN, JUN-DEC	303 420	KG/D
						TKN, JAN-MAY	545 850	KG/D
VAV-B32R	VA0002160	INVISTA - Waynesboro Formerly Dupont - Waynesboro	001	South River	25.3	BOD ₅	272	KG/D
VAV-B32R	VA0025151	Waynesboro STP	001	South River	23.54	CBOD ₅ CBOD ₅ , JUN-OCT	227 113.6	KG/D KG/D
VAV-B35R	VA0024732	Massanutten Public Service STP	001	Quail Run	5.07	BOD ₅	75.7	KG/D
VAV-B37R	VA0002178	Merck & Company	001	S.F. Shenandoah River	88.09	BOD ₅ AMMONIA, AS N	1570 645.9	KG/D KG/D
VAV-B49R	VA0028380	Stoney Creek Sanitary District STP	001	Stoney Creek	19.87	BOD ₅ , JUN-NOV	29.5	KG/D
VAV-B53R	VA0020982	Middletown STP	001	Meadow Brook	2.19	CBOD ₅	20.8	KG/D
VAV-B58R	VA0020532	Berryville STP	001	Shenandoah River	24.23	CBOD ₅	42.6	KG/D

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers and the total nitrogen and total phosphorus waste load allocations for the listed facilities.

Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)
B37R	Coors Brewing Company	VA0073245	54,820	4,112
B14R	Fishersville Regional STP	VA0025291	48,729	3,655
B32R	INVISTA - Waynesboro (Outfall 101)	VA0002160	78,941	1,009
B39R	Luray STP	VA0062642	19,492	1,462
B35R	Massanutten PSA STP	VA0024732	18,273	1,371
B37R	Merck - Stonewall WWTP (Outfall 101)	VA0002178	14,619	1,096
B12R	Middle River Regional STP	VA0064793	82,839	6,213
B23R	North River WWTF (2)	VA0060640	253,391	19,004
B22R	VA Poultry Growers -Hinton	VA0002313	27,410	1,371
B38R	Pilgrims Pride - Alma	VA0001961	18,273	914

Regulations

B31R	Stuarts Draft WWTP	VA0066877	48,729	3,655
B32R	Waynesboro STP	VA0025151	48,729	3,655
B23R	Weyers Cave STP	VA0022349	6,091	457
B58R	Berryville STP	VA0020532	8,528	640
B55R	Front Royal STP	VA0062812	48,729	3,655
B49R	Georges Chicken LLC	VA0077402	31,065	1,553
B48R	Mt. Jackson STP (3)	VA0026441	8,528	640
B45R	New Market STP	VA0022853	6,091	457
B45R	North Fork (SIL) WWTF	VA0090263	23,390	1,754
B49R	Stoney Creek SD STP	VA0028380	7,309	548
B50R	North Fork Regional WWTP (1)	VA0090328	9,137	685
B51R	Strasburg STP	VA0020311	11,939	895
B50R	Woodstock STP	VA0026468	24,364	1,827
A06R	Basham Simms WWTF (4)	VA0022802	18,273	1,371
A09R	Broad Run WRF (5)	VA0091383	134,005	3,350
A08R	Leesburg WPCF	MD0066184	121,822	9,137
A06R	Round Hill Town WWTF	VA0026212	9,137	685
A25R	DSC - Section 1 WWTF (6)	VA0024724	42,029	2,522
A25R	DSC - Section 8 WWTF (7)	VA0024678	42,029	2,522
A25E	H L Mooney WWTF	VA0025101	219,280	13,157
A22R	UOSA - Centreville	VA0024988	1,315,682	16,446
A19R	Vint Hill WWTF (8)	VA0020460	8,680	868
B08R	Opequon WRF	VA0065552	102,336	7,675
B08R	Parkins Mills STP (9)	VA0075191	60,911	4,568
A13E	Alexandria SA WWTF	VA0025160	493,381	29,603
A12E	Arlington County Water PCF	VA0025143	365,467	21,928
A16R	Noman M Cole Jr PCF	VA0025364	612,158	36,729
A12R	Blue Plains (VA Share)	DC0021199	581,458	26,166
A26R	Quantico WWTF	VA0028363	20,101	1,206
A28R	Aquia WWTF	VA0060968	73,093	4,386
A31E	Colonial Beach STP	VA0026409	18,273	1,827
A30E	Dahlgren WWTF	VA0026514	9,137	914
A29E	Fairview Beach	MD0056464	1,827	183
A30E	US NSWC-Dahlgren WWTF	VA0021067	6,578	658
A31R	Purkins Corner STP	VA0070106	1,096	110
TOTALS:			5,156,169	246,635

NOTE: (1) Shenandoah Co. - North Fork Regional WWTP waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by December 31, 2010, the WLAs will be deleted and facility removed from Significant Discharger List.

(2) Harrisonburg-Rockingham Regional S.A.-North River STP: waste load allocations (WLAs) based on a design flow capacity of 20.8 million gallons per day (MGD). If plant is not certified to operate at 20.8 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN =

194,916 lbs/yr; TP = 14,619 lbs/yr, based on a design flow capacity of 16.0 MGD.

(3) Mount Jackson STP: waste load allocations (WLAs) based on a design flow capacity of 0.7 million gallons per day (MGD). If plant is not certified to operate at 0.7 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,309 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(4) Purcellville-Basham Simms STP: waste load allocations (WLAs) based on a design flow capacity of 1.5 million gallons per day (MGD). If plant is not certified to operate at 1.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 12,182 lbs/yr; TP = 914 lbs/yr, based on a design flow capacity of 1.0 MGD.

(5) Loudoun Co. S.A.-Broad Run WRF: waste load allocations (WLAs) based on a design flow capacity of 11.0 million gallons per day (MGD). If plant is not certified to operate at 11.0 MGD design flow capacity by December 31,

2010, the WLAs will decrease to TN = 121,822 lbs/yr; TP = 3,046 lbs/yr, based on a design flow capacity of 10.0 MGD.

(6) Dale Service Corp.-Section 1 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(7) Dale Service Corp.-Section 8 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(8) Fauquier Co. W&SA-Vint Hill STP: waste load allocations (WLAs) based on a design flow capacity of 0.95 million gallons per day (MGD). If plant is not certified to operate at 0.95 MGD design flow capacity by December 31,

2010, the WLAs will decrease to TN = 5,482 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(9) Parkins Mill STP: waste load allocations (WLAs) based on a design flow capacity of 5.0 million gallons per day (MGD). If plant is not certified to operate at 5.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD.

VA.R. Doc. No. R07-289; Filed June 28, 2007, 12:45 p.m.

Fast-Track Regulation

Title of Regulation: 9VAC25-720. Water Quality Management Planning Regulation - Middletown (amending 9VAC25-720-50).

Statutory Authority: §62.1-44.15 of the Code of Virginia; 33 USC §1313(e) of the Clean Water Act.

Public Hearing Information:

August 30, 2007 – 1:30 p.m. – Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA

Public Comments: Public comments may be submitted until 5 p.m. on September 21, 2007.

Effective Date: October 22, 2007.

Agency Contact: Charles H. Martin, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4462, FAX (804) 698-4116, email chmartin@deq.virginia.gov.

Basis: Section 62.1-44.15 of the Code of Virginia is the source of legal authority identified to promulgate these amendments. The scope and purpose of the State Water Control Law is to protect and to restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and to reduce pollution and to promote water conservation. Section 62.1-44.15 (10) of the Code of Virginia mandates the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth. In addition, §62.1-44.15 (14) requires the board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of this chapter. The specific effluent limits needed to meet the water quality goals are discretionary.

The correlation between the proposed regulatory action and the legal authority identified above is that the amendment being considered will result in a modified waste load allocation that has been shown to be protective of water quality and that will contribute to the attainment of the Virginia Water Quality Standards.

Purpose: The amendment is needed to allow for the planned expansion of the Middletown STP while ensuring that the expanded discharge remains protective of water quality in the receiving stream, Meadow Brook. The modified waste load allocation reflects a CBOD₅ limit that is protective at the expanded flow tiers.

Rationale for Using Fast-Track Process: The proposed amendment is expected to be noncontroversial, and therefore justifies using the fast-track process. The amendment will reflect effluent limitations outlined in the current VPDES permit. These have been shown to be protective of water quality for the receiving stream, Meadow Brook. The current

Regulations

VPDES permit for the Middletown STP was issued with the original WQMP limits, with the proposed revised effluent limits outlined as available to the facility once the WQMP is amended. This permit has been reviewed by EPA and public noticed with all public comment issues addressed. The effective date of the permit was October 2, 2006.

Substance: In 9VAC25-720-50 B, for the Middletown STP (VA0020982), change the CBOD₅ waste load allocation from 20.8 kg/d to 24 kg/d.

Issues: The public will benefit, as the proposed amendment will ensure the attainment and preservation of water quality standards in the receiving stream downstream of the Middletown STP discharge, Meadow Brook. There is no disadvantage to the agency or the Commonwealth that will result from the adoption of this amendment.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The State Water Control Board (Board) proposes to increase the 5-day Carbonaceous Biochemical Oxygen Demand (CBOD₅) limits for the Middletown Sewage Treatment Plant (STP). The revised limits were outlined in the current Virginia Pollutant Discharge Elimination System (VPDES) permit as available to the facility once the Water Quality Management Planning Regulation is amended. The permit has been shown to be protective of water quality for Meadow Brook downstream of Middletown STP. The public was noticed of the permit and no public comments were received.

Results 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. The Board proposes to increase the CBOD₅ limits for the Middletown STP in the current Water Quality Management Planning Regulation. The revised effluent limits were outlined in the current VPDES permit as available to the facility once the current regulation is amended. Once approved, the CBOD₅ waste load allocation for the Middletown STP will be increased from 20.8 kilogram/day (kg/d) to 24 kg/d, which will accommodate the facility's future expansion from 0.25 million gallons per day (MGD) to 0.4 MGD.

The proposed amendment will likely benefit the Middletown STP in that the facility will be able to expand and upgrade its capacity. On the other hand, the proposed amendment may increase the actual discharges to Meadow Brook, a tributary to Cedar Creek and the North Fork Shenandoah River. According to DEQ, the current VPDES permit, with the revised effluent limits outlined as available to the facility once the regulation is amended, has been shown to be protective of water quality conditions in Meadow Brook. The

public were noticed of the permit and no public comments were received. Therefore, the proposed amendment will likely not have any significant adverse impact on public health or the environment.

Businesses and Entities Affected. The proposed regulation will affect the Middletown STP.

Localities Particularly Affected. The proposed regulation will particularly affect the Town of Middletown, the owner of the Middletown STP.

Projected Impact on Employment. The proposed amendment will likely have a positive impact on the number of people employed by the Middletown STP due to the facility's ability to operate at its expanded capacity.

Effects on the Use and Value of Private Property. The proposed regulation will likely not have any significant impact on the use and value of the private property.

Small Businesses: Costs and Other Effects. No small businesses will be affected.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses will be affected

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 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 Response to the Department of Planning and Budget's Economic Impact Analysis: The department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The Town of Middletown has plans to expand and upgrade its facility on Meadow Brook, a tributary to Cedar Creek and the North Fork Shenandoah River. The CBOD₅ limit for the Middletown STP (VA0020982) currently included in the Water Quality Management Planning (WQMP) regulation is proposed for modification to reflect a revised waste load allocation that has been shown to be protective

of water quality at the expanded 0.4 MGD flow tier. The amendment changes the Middletown STP CBOD₅ waste load allocation from 20.8 kg/d to 24 kg/d. During the permit reissuance process, the discharge was remodeled using the Regional Stream Model (v.4.11) because new stream information was available.

9VAC25-720-50. Potomac-Shenandoah River Basin.

A. Total Maximum Daily Load (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA	Units
1.	Muddy Creek	Nitrate TMDL Development for Muddy Creek/Dry River, Virginia	Rockingham	B21R	Nitrate	49,389.00	LB/YR
2.	Blacks Run	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	32,844.00	LB/YR
3.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Sediment	69,301.00	LB/YR
4.	Cooks Creek	TMDL Development for Blacks Run and Cooks Creek	Rockingham	B25R	Phosphorus	0	LB/YR
5.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Sediment	286,939.00	LB/YR
6.	Muddy Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham	B22R	Phosphorus	38.00	LB/YR
7.	Holmans Creek	TMDL Development for Muddy Creek and Holmans Creek, Virginia	Rockingham/ Shenandoah	B45R	Sediment	78,141.00	LB/YR
8.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Sediment	276.00	LB/YR
9.	Mill Creek	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B29R	Phosphorus	138.00	LB/YR
10.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Sediment	0.00	LB/YR
11.	Pleasant Run	TMDL Development for Mill Creek and Pleasant Run	Rockingham	B27R	Phosphorus	0.00	LB/YR
12.	Linville Creek	Total Maximum Load Development for Linville Creek: Bacteria and Benthic Impairments	Rockingham	B46R	Sediment	5.50	TONS/YR
13.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Ammonia	7,185.00	KG/YR
14.	Quail Run	Benthic TMDL for Quail Run	Rockingham	B35R	Chlorine	27.63	KG/YR
15.	Shenandoah River	Development of Shenandoah River PCB TMDL (South Fork and Main Stem)	Warren & Clarke	B41R B55R B57R B58R	PCBs	179.38	G/YR
16.	Shenandoah	Development of Shenandoah	Warren &	B51R	PCBs	0.00	G/YR

Regulations

	River	River PCB TMDL (North Fork)	Clarke				
17.	Shenandoah River	Development of Shenandoah River PCB TMDL (Main Stem)	Warren & Clarke	WV	PCBs	179.38	G/YR
18.	Cockran Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Augusta	B10R	Organic Solids	1,556.00	LB/YR
19.	Lacey Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Rockingham	B47R	Organic Solids	680.00	LB/YR
20.	Orndorff Spring	Benthic TMDL Reports for Six Impaired Stream Segments in the Potomac-Shenandoah and James River Basins	Shenandoah	B52R	Organic Solids	103.00	LB/YR
21.	Toms Brook	Benthic TMDL for Toms Brook in Shenandoah County, Virginia	Shenandoah	B50R	Sediment	8.1	T/YR
22.	Goose Creek	Benthic TMDLs for the Goose Creek Watershed	Loudoun, Fauquier	A08R	Sediment	1,587	T/YR
23.	Little River	Benthic TMDLs for the Goose Creek Watershed	Loudoun	A08R	Sediment	105	T/YR
24.	Christians Creek	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B14R	Sediment	145	T/YR
25.	Moffett Creek	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B13R	Sediment	0	T/YR
26.	Upper Middle River	Fecal Bacteria and General Standard Total Maximum Daily Load Development for Impaired Streams in the Middle River and Upper South River Watersheds, Augusta County, VA	Augusta	B10R	Sediment	1.355	T/YR
27.	Mossy Creek	Total Maximum Daily Load Development for Mossy Creek and Long Glade Run: Bacteria and General Standard (Benthic) Impairments	Rockingham	B19R	Sediment	0.04	T/YR
28.	Smith Creek	Total Maximum Daily Load (TMDL) Development for Smith Creek	Rockingham, Shenandoah	B47R	Sediment	353,867	LB/YR
29.	Abrams Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke	Frederick	B09R	Sediment	478	T/YR

Regulations

		counties, Virginia					
30.	Lower Opequon Creek	Opequon Watershed TMDLs for Benthic Impairments: Abrams Creek and Lower Opequon Creek, Frederick and Clarke counties, Virginia	Frederick, Clarke	B09R	Sediment	1,039	T/YR
31.	Mill Creek	Mill Creek Sediment TMDL for a Benthic Impairment, Shenandoah County, Virginia	Shenandoah	B48R	Sediment	0.9	T/YR
32.	South Run	Benthic TMDL Development for South Run, Virginia	Fauquier	A19R	Phosphorus	0.038	T/YR
33.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Sediment	40	T/YR
34.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	Lead	0	KG/YR
35.	Lewis Creek	Total Maximum Daily Load Development for Lewis Creek, General Standard (Benthic)	Augusta	B12R	PAHs	0	KG/YR

B. Non-TMDL waste load allocations.

Water Body	Permit No.	Facility Name	Outfall No.	Receiving Stream	River Mile	Parameter Description	WLA	Units WLA
VAV-B02R	VA0023281	Monterey STP	001	West Strait Creek	3.85	CBOD ₅	11.4	KG/D
VAV-B08R	VA0065552	Opequon Water Reclamation Facility	001	Opequon Creek	32.66	BOD ₅ , JUN-NOV	207	KG/D
		AKA Winchester – Frederick Regional				CBOD ₅ , DEC-MAY	1514	KG/D
VAV-B14R	VA0025291	Fishersville Regional STP	001	Christians Creek	12.36	BOD ₅	182	KG/D
VAV-B23R	VA0060640	North River WWTF	001	North River	15.01	CBOD ₅ , JAN-MAY	1030	KG/D
	7.23.04	AKA Harrisonburg – Rockingham Reg. Sewer Auth.				CBOD ₅ , JUN-DEC	606	KG/D
						TKN, JUN-DEC	303	KG/D
						TKN, JAN-MAY	545	KG/D
VAV-B32R	VA0002160	INVISTA - Waynesboro Formerly Dupont - Waynesboro	001	South River	25.3	BOD ₅	272	KG/D
VAV-B32R	VA0025151	Waynesboro STP	001	South River	23.54	CBOD ₅ CBOD ₅ , JUN-OCT	227 113.6	KG/D KG/D
VAV-B35R	VA0024732	Massanutten Public Service	001	Quail Run	5.07	BOD ₅	75.7	KG/D

Regulations

		STP						
VAV-B37R	VA0002178	Merck & Company	001	S.F. Shenandoah River	88.09	BOD ₅	1570	KG/D
						AMMONIA, AS N	645.9	KG/D
VAV-B49R	VA0028380	Stoney Creek Sanitary District STP	001	Stoney Creek	19.87	BOD ₅ , JUN-NOV	29.5	KG/D
VAV-B53R	VA0020982	Middletown STP	001	Meadow Brook	2.19	CBOD ₅	20.8 24.0	KG/D
VAV-B58R	VA0020532	Berryville STP	001	Shenandoah River	24.23	CBOD ₅	42.6	KG/D

C. Nitrogen and phosphorus waste load allocations to restore the Chesapeake Bay and its tidal rivers.

The following table presents nitrogen and phosphorus waste load allocations for the identified significant dischargers and the total nitrogen and total phosphorus waste load allocations for the listed facilities.

Virginia Waterbody ID	Discharger Name	VPDES Permit No.	Total Nitrogen (TN) Waste Load Allocation (lbs/yr)	Total Phosphorus (TP) Waste Load Allocation (lbs/yr)
B37R	Coors Brewing Company	VA0073245	54,820	4,112
B14R	Fishersville Regional STP	VA0025291	48,729	3,655
B32R	INVISTA - Waynesboro (Outfall 101)	VA0002160	78,941	1,009
B39R	Luray STP	VA0062642	19,492	1,462
B35R	Massanutten PSA STP	VA0024732	18,273	1,371
B37R	Merck - Stonewall WWTP (Outfall 101)	VA0002178	14,619	1,096
B12R	Middle River Regional STP	VA0064793	82,839	6,213
B23R	North River WWTF (2)	VA0060640	253,391	19,004
B22R	VA Poultry Growers -Hinton	VA0002313	27,410	1,371
B38R	Pilgrims Pride - Alma	VA0001961	18,273	914
B31R	Stuarts Draft WWTP	VA0066877	48,729	3,655
B32R	Waynesboro STP	VA0025151	48,729	3,655
B23R	Weyers Cave STP	VA0022349	6,091	457
B58R	Berryville STP	VA0020532	8,528	640
B55R	Front Royal STP	VA0062812	48,729	3,655
B49R	Georges Chicken LLC	VA0077402	31,065	1,553
B48R	Mt. Jackson STP (3)	VA0026441	8,528	640
B45R	New Market STP	VA0022853	6,091	457
B45R	North Fork (SIL) WWTF	VA0090263	23,390	1,754
B49R	Stoney Creek SD STP	VA0028380	7,309	548
B50R	North Fork Regional WWTP (1)	VA0090328	9,137	685
B51R	Strasburg STP	VA0020311	11,939	895
B50R	Woodstock STP	VA0026468	24,364	1,827

A06R	Basham Simms WWTF (4)	VA0022802	18,273	1,371
A09R	Broad Run WRF (5)	VA0091383	134,005	3,350
A08R	Leesburg WPCF	MD0066184	121,822	9,137
A06R	Round Hill Town WWTF	VA0026212	9,137	685
A25R	DSC - Section 1 WWTF (6)	VA0024724	42,029	2,522
A25R	DSC - Section 8 WWTF (7)	VA0024678	42,029	2,522
A25E	H L Mooney WWTF	VA0025101	219,280	13,157
A22R	UOSA - Centreville	VA0024988	1,315,682	16,446
A19R	Vint Hill WWTF (8)	VA0020460	8,680	868
B08R	Opequon WRF	VA0065552	102,336	7,675
B08R	Parkins Mills STP (9)	VA0075191	60,911	4,568
A13E	Alexandria SA WWTF	VA0025160	493,381	29,603
A12E	Arlington County Water PCF	VA0025143	365,467	21,928
A16R	Noman M Cole Jr PCF	VA0025364	612,158	36,729
A12R	Blue Plains (VA Share)	DC0021199	581,458	26,166
A26R	Quantico WWTF	VA0028363	20,101	1,206
A28R	Aquia WWTF	VA0060968	73,093	4,386
A31E	Colonial Beach STP	VA0026409	18,273	1,827
A30E	Dahlgren WWTF	VA0026514	9,137	914
A29E	Fairview Beach	MD0056464	1,827	183
A30E	US NSWC-Dahlgren WWTF	VA0021067	6,578	658
A31R	Purkins Corner STP	VA0070106	1,096	110
	TOTALS:		5,156,169	246,635

NOTE: (1) Shenandoah Co. - North Fork Regional WWTP waste load allocations (WLAs) based on a design flow capacity of 0.75 million gallons per day (MGD). If plant is not certified to operate at 0.75 MGD design flow capacity by December 31, 2010, the WLAs will be deleted and facility removed from Significant Discharger List.

(2) Harrisonburg-Rockingham Regional S.A.-North River STP: waste load allocations (WLAs) based on a design flow capacity of 20.8 million gallons per day (MGD). If plant is not certified to operate at 20.8 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 194,916 lbs/yr; TP = 14,619 lbs/yr, based on a design flow capacity of 16.0 MGD.

(3) Mount Jackson STP: waste load allocations (WLAs) based on a design flow capacity of 0.7 million gallons per day (MGD). If plant is not certified to operate at 0.7 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 7,309 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(4) Purcellville-Basham Simms STP: waste load allocations (WLAs) based on a design flow capacity of 1.5 million

gallons per day (MGD). If plant is not certified to operate at 1.5 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 12,182 lbs/yr; TP = 914 lbs/yr, based on a design flow capacity of 1.0 MGD.

(5) Loudoun Co. S.A.-Broad Run WRF: waste load allocations (WLAs) based on a design flow capacity of 11.0 million gallons per day (MGD). If plant is not certified to operate at 11.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 121,822 lbs/yr; TP = 3,046 lbs/yr, based on a design flow capacity of 10.0 MGD.

(6) Dale Service Corp.-Section 1 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31,

2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

(7) Dale Service Corp.-Section 8 WWTF: waste load allocations (WLAs) based on a design flow capacity of 4.6 million gallons per day (MGD). If plant is not certified to operate at 4.6 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,193 lbs/yr, based on a design flow capacity of 4.0 MGD.

Regulations

(8) Fauquier Co. W&SA-Vint Hill STP: waste load allocations (WLAs) based on a design flow capacity of 0.95 million gallons per day (MGD). If plant is not certified to operate at 0.95 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 5,482 lbs/yr; TP = 548 lbs/yr, based on a design flow capacity of 0.6 MGD.

(9) Parkins Mill STP: waste load allocations (WLAs) based on a design flow capacity of 5.0 million gallons per day (MGD). If plant is not certified to operate at 5.0 MGD design flow capacity by December 31, 2010, the WLAs will decrease to TN = 36,547 lbs/yr; TP = 2,741 lbs/yr, based on a design flow capacity of 3.0 MGD.

VA.R. Doc. No. R07-288; Filed June 28, 2007, 12:46 p.m.

Fast-Track Regulation

Title of Regulation: 9VAC25-720. **Water Quality Management Planning Regulation Danville City - Northside (amending 9VAC25-720-80).**

Statutory Authority: §62.1-44.15 of the Code of Virginia; 33 USC §1313(e) of the Clean Water Act.

Public Hearing Information:

August 30, 2007 – 1:30 p.m. – Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA

Public Comments: Public comments may be submitted until 5 p.m. on September 21, 2007.

Effective Date: October 22, 2007.

Agency Contact: Charles H. Martin, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4462, FAX (804) 698-4116, email chmartin@deq.virginia.gov.

Basis: Section 62.1-44.15 of the Code of Virginia is the source of legal authority identified to promulgate these amendments.

The scope and purpose of the State Water Control Law is to protect and restore the quality of state waters, to safeguard the clean waters from pollution, to prevent and reduce pollution, and to promote water conservation. Section 62.1-44.15 (10) mandates the board to adopt such regulations as it deems necessary to enforce the general water quality management program of the board in all or part of the Commonwealth. In addition, §62.1-44.15 (14) requires the board to establish requirements for the treatment of sewage, industrial wastes and other wastes that are consistent with the purposes of this chapter. The specific effluent limits needed to meet the water quality goals are discretionary.

The correlation between the proposed regulatory action and the legal authority identified above is that the amendment being considered is a clarification of the parameter

description for an existing effluent limit that contributes to the attainment of the Virginia Water Quality Standards.

Purpose: The amended WQMP regulation will more accurately reflect the limitations put forth in the existing VPDES permit for the Danville City – Northside WWTP. The facility has requested the amendment as part of an ongoing permit reissuance. The WWTP is currently discharging at a rate of approximately 25-30% (6-8MGD) of the design flow (24MGD) due to the loss of major industrial customers in the Danville service area. The facility has requested that VDEQ determine limits for a 12MGD discharge during the process of reissuing its VPDES permit. During review of the WQMP regulation as part of the reissuance process, it was found that the facility is incorrectly limited by the current WQMP regulation because the BOD₅ limit is expressed as a year-round limit instead of a seasonal limit as determined through earlier water quality studies. Adding the seasonal applicability during the months of June-October to the BOD₅ limit will correct this error.

Rationale for Using Fast-Track Process: The proposed amendments are expected to be noncontroversial, justifying the use of the fast-track process. The amendments will reflect the correct parameter description for the existing BOD₅ effluent limitation in the current VPDES permit for the Danville City – Northside WWTP. The seasonal BOD₅ limits were requested by the City of Danville in 1995. The subsequent VPDES permits were issued with the seasonal limits that were supported by water quality studies. These permits have been reviewed by EPA and public noticed with no comment received.

Substance: In 9 VAC 25-720-80 B, for the Danville City – Northside WWTP (VA0060593), revise the parameter description for the BOD₅ waste load allocation from “BOD₅” to “BOD₅, Jun-Oct.”

Issues: The permitted facility will benefit because the proposed amendment accurately reflects existing BOD₅ permit requirements and removes an unfair limitation. There is no disadvantage to the public, the agency or the Commonwealth that will result from the adoption of these amendments public will benefit, as these amendments will continue to ensure the attainment and preservation of water quality standards in the Dan River downstream of the Danville City – Northside WWTP discharge.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The State Water Control Board (Board) proposes to correct an error in the parameter description for the 5-day Biochemical Oxygen Demand (BOD₅) waste load allocation for the Danville City – Northside Wastewater Treatment Plants. The year-round BOD₅ waste load allocation in the current Water Quality Management Planning Regulation should be seasonal (from

June to October), as outlined in the facility’s Virginia Pollutant Discharge Elimination System (VPDES) permit.

Results of Analysis. The proposed regulation will likely not have any economic impact.

Estimated Economic Impact. The Board proposes to correct an error in the parameter description for the 5-day Biochemical Oxygen Demand (BOD₅) waste load allocation for the Danville City – Northside Wastewater Treatment Plant (WWTP) in the current Water Quality Management Planning Regulation. The current regulation includes a year-round BOD₅ waste load allocation for the Danville City – Northside WWTP of 1,907 kilogram/day (kg/d). However, the BOD₅ limit in the facility permit has always been seasonally applied between the months of June through October. The parameter description will be changed from “BOD₅” to “BOD₅, Jun-Oct.” Since currently the facility is discharging according to the permit limits, there will likely be no impact associated with this correction.

Businesses and Entities Affected. The proposed amendment concerns the Danville City – Northside WWTP.

Localities Particularly Affected. The proposed amendment will particularly affect the City of Danville, the owner of the Danville City – Northside WWTP.

Projected Impact on Employment. The proposed amendment will likely not have any impact on employment.

Effects on the Use and Value of Private Property. The proposed amendment will likely not have any impact on the use and value of private property.

Small Businesses: Costs and Other Effects. No small businesses will be affected.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small businesses will be affected.

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 department has reviewed the economic impact analysis prepared by the Department of Planning and Budget and has no comment.

Summary:

The proposed amendment corrects an error in the parameter description for the BOD5 wasteload allocation for the Danville City – Northside WWTP (VA0060593) located in the Roanoke River basin. The current section of the Water Quality Management Planning (WQMP) regulation, adopted by the State Water Control Board at its September 28, 2005, meeting, includes a year-round BOD5 waste load allocation for the Northside WWTP of 1,907 kg/d. However, the BOD5 limitation in the WWTP’s permit has always been seasonally applied between the months of June through October, and the WQMP regulation should be amended accordingly by changing the parameter description from "BOD5" to "BOD5, Jun-Oct."

9VAC25-720-80. Roanoke River Basin.

A. Total Maximum Daily Load (TMDLs).

TMDL #	Stream Name	TMDL Title	City/County	WBID	Pollutant	WLA	Units
1.	Ash Camp Creek	Total Maximum Daily Load Development for Ash Camp Creek	Charlotte	L39R	Sediment	20.7	T/YR
2.	North Fork Blackwater River	Total Maximum Daily Load (TMDL) Development for the Upper Blackwater River Watershed	Franklin	L08R	Sediment	0	T/YR

Regulations

3.	North Fork Blackwater River	Total Maximum Daily Load (TMDL) Development for the Upper Blackwater River Watershed	Franklin	L08R	Phosphorus	0	T/YR
4.	Upper Blackwater River	Total Maximum Daily Load (TMDL) Development for the Upper Blackwater River Watershed	Franklin	L08R	Sediment	0.526	T/YR
5.	Flat Creek	Benthic TMDL for Flat Creek Watershed, Virginia	Mecklenburg	L79R	Sediment	76.2	T/YR
6.	Twitty's Creek	Benthic TMDL for Twittys Creek Watershed, Virginia	Charlotte	L39R	Sediment	20.4	T/YR
7.	Roanoke River	Benthic TMDL Development for the Roanoke River, Virginia	Roanoke, Montgomery, Floyd, Botetout, Salem, Roanoke	L04R	Sediment	5,189	T/YR

B. Non-TMDL waste load allocations.

Water Body	Permit No.	Facility Name	Outfall No.	Receiving Stream	River Mile	Parameter Description	WLA	Units WLA
VAW-L04R	VA0072389	Oak Ridge Mobile Home Park	001	Falling Creek UT	0.32	BOD ₅	0.85	KG/D
VAW-L04R	VA0025020	Roanoke City Regional Water Pollution Control Plant	001	Roanoke River	201.81	BOD ₅ TKN, APR-SEP TKN, OCT-MAR	1173 318 636	KG/D KG/D KG/D
			001	Roanoke River	201.81	BOD ₅ TKN, APR-SEP TKN, OCT-MAR	1173 416 832	KG/D KG/D KG/D
			001	Roanoke River	201.81	BOD ₅ TKN, APR-SEP TKN, OCT-MAR	1173 469 939	KG/D KG/D KG/D
VAW-L04R	VA0077895	Roanoke Moose Lodge	001	Mason Creek	7.79	BOD ₅ , JUN-SEP TKN, JUN-SEP	0.24 0.09	KG/D KG/D
VAW-L07R	VA0020842	Bedford County School Board-Stewartsville Elementary School	001	Nat Branch, UT	0.59	BOD ₅	0.5	KG/D
VAW-L14R	VA0029254	Ferrum Water and Sewage Auth. - Ferrum Sewage Treatment Plant	001	Storey Creek	9.78	BOD ₅	14.2	KG/D
VAW-L14R	VA0085952	Rocky Mount Town Sewage Treatment Plant	001	Pigg River	52	BOD ₅	133	KG/D
VAW-L14R	VA0076015	Ronile Incorporated	001	Pigg River	57.24	BOD ₅	14.8	KG/D

Regulations

VAW-L21R	VA0063738	Bedford County School Board - Staunton River High School	001	Shoulder Run, UT	0.95	BOD ₅	1.8	KG/D
VAW-L21R	VA0020869	Bedford County School Board - Thaxton Elementary School	001	Wolf Creek, UT	0.35	BOD ₅	0.31	KG/D
VAW-L22R	VA0023515	Blue Ridge Regional Jail Auth. - Moneta Adult Detention Facility STP	001	Mattox Creek, UT	3.76	BOD ₅	1.66	KG/D
VAW-L25R	VA0020851	Bedford County School Board - Otter River Elementary School	001	Big Otter River, UT	1.15	BOD ₅	0.4	KG/D
VAW-L26R	VA0022390	Bedford City - Sewage Treatment Plant	001	Little Otter River	14.36	BOD ₅	52.8	KG/D
VAW-L26R	VA0020818	Bedford County School Board - Body Camp Elementary	001	Wells Creek, UT	2.22	BOD ₅	0.4	KG/D
VAW-L27R	VA0020826	Bedford County School Board - New London Academy	001	Buffalo Creek, UT	0.67	BOD ₅	0.39	KG/D
VAC-L29R	VA0031194	Briarwood Village Mobile Home Park STP	001	Smith Branch, UT	2.82	BOD ₅	1.3	KG/D
VAC-L35R	VA0023965	Campbell Co Util & Serv Auth. - Rustburg	001	Mollys Creek	17.81	BOD ₅	8.13	KG/D
VAC-L39R	VA0084433	Drakes Branch WWTP	001	Twitty's Creek	6.04	BOD ₅	6.4	KG/D
VAC-L39R	VA0024058	Keysville WWTP	001	Ash Camp Creek	7.63	CBOD ₅ , MAY-NOV	32.1	KG/D
						TKN, MAY-NOV	7.57	KG/D
AC-L39R	VA0050822	Westpoint Stevens Inc Drakes Branch	001	Twittys Creek	7.22	BOD ₅	6.31	KG/D
VAW-L43R	VA0022985	Stuart Town - Sewage Treatment Plant	001	South Mayo River	30.78	BOD ₅	63.5	KG/D
VAW-L54R	VA0069345	Henry Co Public Service Auth. - Lower Smith River STP	001	Smith River	19.4	BOD ₅	257	KG/D
VAW-	VA0025305	Martinsville City	001	Smith River	22.69	BOD ₅	681	KG/D

Regulations

L54R		Sewage Treatment Plant						
VAC-L60R	VA0060593	Danville City - Northside	001	Dan River	53.32	BOD ₅ , JUN-OCT TKN, JUN-OCT	1907 1817	KG/D KG/D
VAC-L66R	VA0020524	Town of Chatham STP	001	Cherrystone Creek	2.49	CBOD ₅ TKN	64.8 38.9	KG/D KG/D
VAC-L75L	VA0020168	Clarksville WWTP	001	Blue Creek/John H. Kerr Reservoir	0.1	BOD ₅	59.5	KG/D
VAC-L77R	VA0076881	Chase City Regional WWTP	001	Little Bluestone Creek	13.67	CBOD ₅ , MAY-NOV	29.5	KG/D
						TKN, MAY-NOV	9.5	KG/D
VAC-L78R	VA0026247	Boydton WWTP	001	Coleman Creek	3.79	CBOD ₅ , MAY-NOV	17.7	KG/D
						TKN, MAY-NOV	4.1	KG/D
VAC-L79R	VA0069337	South Hill WWTP	001	Flat Creek	8.95	CBOD ₅ , APR-NOV	60.6	KG/D

VA.R. Doc. No. R07-290; Filed June 28, 2007, 12:46 p.m.

TITLE 12. HEALTH STATE BOARD OF HEALTH Final Regulation

Title of Regulation: 12VAC5-125. Regulations for Bedding and Upholstered Furniture Inspection Program (adding 12VAC5-125-10, 12VAC5-125-20, 12VAC5-125-30, 12VAC5-125-40, 12VAC5-125-50, 12VAC5-125-60, 12VAC5-125-70, 12VAC5-125-80, 12VAC5-125-90, 12VAC5-125-100, 12VAC5-125-110, 12VAC5-125-120, 12VAC5-125-130, 12VAC5-125-140, 12VAC5-125-150, 12VAC5-125-160, 12VAC5-125-170, and 12VAC5-125-180).

Statutory Authority: §32.1-12 of the Code of Virginia.

Effective Date: September 1, 2007.

Agency Contact: Gary L. Hagy, Director, Division of Food and Environmental Services, Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7455, FAX (804) 864-7475, or email gary.hagy@vdh.virginia.gov.

Summary:

The regulations expand bedding and upholstered furniture definitions, outline causes for inspections, expand exemptions to the bedding law in the Code of Virginia, and outline penalties for violations.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

CHAPTER 125.

REGULATIONS FOR BEDDING AND UPHOLSTERED FURNITURE INSPECTION PROGRAM.

12VAC5-125-10. Definitions.

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

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

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

"Bedding" means any mattress, mattress pad, box spring, upholstered bed, davenport, futon, upholstered sofa bed, quilted pad, packing pads, hammock pad, comforter, quilt,

bolster, cushion, pillow, featherbed, sleeping bag, studio couch, or any other bag, case, pillow, cushion, or cover made of leather, textile, or other material that is stuffed or filled in whole or in part with concealed substance that can be used by any human being for sleeping or reclining purposes.

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

"Board" means the State Board of Health.

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

"Department" means the State Department of Health.

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

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

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

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

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

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

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

"Licensing state" means any of the United States that require a manufacturer, importer, distributor/wholesaler, supply

dealer, reupholsterer, or renovator to apply for a license in order to sell bedding and upholstered furniture products in that state.

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

"New" means not previously used for any purpose. Uncovered floor models and customer returns shall not be considered new. Manufacturing process shall not be considered prior use.

"Permit" means consent granted in accordance with §32.1-216 of the Code of Virginia to approve a process to sanitize or sterilize filling material, bedding or upholstered furniture by a person treating used products for resale.

"Person" means an individual, corporation, partnership, association or any other legal entity.

"Renovator" means a person who rebuilds, repairs, makes over, re-covers, restores, renovates or renews used bedding.

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

"Reupholsterer" means a person who, either by himself or through employees or agents, repairs, reupholsters, recovers, restores, or renews upholstered furniture; or who makes to order and specification of the user any article of upholstered furniture, using either new materials or the owner's materials.

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

"Sanitizer" means a person who sanitizes articles of bedding or upholstered furniture.

"Secondhand" means having been made prior use of or containing any filling material of which prior use has been made or that has been in a customer's possession.

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

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

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

Regulations

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

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

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

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

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

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

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

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

12VAC5-125-20. Administration.

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

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

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

1. Approve the process of sanitizing or sterilizing filling materials, bedding, or upholstered furniture.

2. Issue licenses/permits and assign a uniform registry number to importers, manufacturers, renovators, reupholsterers, or sanitizers.

3. Order the return of any item of bedding or upholstered furniture or any filling material made, remade, renovated, reupholstered, prepared, processed, labeled or not labeled in violation of the provisions of this chapter to the manufacturer or importer thereof.

4. Inspect the premises of a holder of a license or permit issued by the commissioner, subject to the requirements set forth at 12VAC5-125-80.

5. Refuse to issue, suspend or revoke the license or permit of any person (i) who violates any provision of this chapter, any regulation of the board pursuant to this chapter or any order of the board or commissioner or (ii) who is not a resident of the Commonwealth and fails or refuses to enter an appearance in any circuit court in the Commonwealth to answer a charge or charges of violation of any provision of this chapter, regulation of the board or order of the board or commissioner.

12VAC5-125-30. Powers and procedures of chapter not exclusive.

The board reserves the right to authorize a procedure for enforcement of this chapter that is not inconsistent with the provisions set forth herein and the provisions of Chapter 1 (§32.1-1 et seq.) of Title 32.1 of the Code of Virginia.

12VAC5-125-40. Exemptions.

The provisions of this chapter shall not apply to:

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

2. Upholstered furniture and bedding products that are antiques as defined in 12VAC5-125-10.

3. Any interstate public carrier.

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

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

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

12VAC5-125-50. Licenses, permits, and registration numbers.

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

1. Every importer and every person manufacturing, renovating or reupholstering any bedding or upholstered furniture or processing or selling any filling material to be used in articles of bedding or upholstered furniture, such as a distributor/wholesaler or supply dealer, shall first obtain a license from the commissioner for each place of business, subsidiary, branch or branch factory operated or contracted by him for such purpose.

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

3. Each branch, branch factory and subsidiary shall be responsible for the contents and for the tagging, as provided in this chapter, of items of bedding and upholstered furniture made, remade, renovated, reupholstered, or imported by it and offered for sale or use in the Commonwealth.

4. Every person who, on his own account or for others, sells or distributes either directly or indirectly to any person either at wholesale or retail any bedding, filling

material, shoddy pad, or upholstered furniture by means of a permanent location, car, truck, catalog, office, Internet sales or in any other manner, shall obtain from the commissioner a license for each such method of sale or distribution.

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

C. General provisions.

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

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

D. Procedure for obtaining a license or permit.

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

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

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

1. A properly completed application is submitted;

2. The appropriate fee, if required, is submitted;

3. A preoperational inspection shows that the manufacturer, importer, distributor, wholesaler, renovator, reupholsterer, or supply dealer is in compliance with the requirements of this chapter.

Regulations

12VAC5-125-60. Revocation of a license or permit.

The commissioner may, after providing an opportunity for a hearing, revoke a license or permit for flagrant or continuing violation of any of the requirements of this chapter.

Prior to revocation, the commissioner shall notify in writing the holder of the license or permit of the specific reason for which the license or permit is to be revoked. The license or permit shall be revoked at the end of the 15 days following service of such notice unless a written request for a hearing is filed before then with the commissioner. If no request for a hearing is filed within the 15-day period, the revocation of the license or permit shall be final.

12VAC5-125-70. Application after revocation.

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

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

A. Inspections of license and permit holders.

Inspection of the premises of a holder of a license or permit issued under this chapter will be initiated upon the following complaints when they relate to a violation of this chapter:

1. Upon complaints received by the commissioner.
2. Upon complaints received by the Bedding Program.
3. Upon complaints received by the Department of Agriculture and Consumer Services and reported to the commissioner or Bedding Program.
4. Upon complaints made to an inspector in the course of a routine inspection and reported to the Bedding Program.
5. Upon complaints against a licensee made by an inspector when noted in the course of a routine inspection of an ancillary operation (such as a sanitizer, distributor/wholesaler or retailer) and reported to the Bedding Program.
6. Upon complaints (or findings of violations) against a licensee by the authorities of a government jurisdiction outside the Commonwealth that the licensee has sold bedding in violation of laws, regulations or standards of that jurisdiction dealing with tagging, sanitization, or consumer protection requirements.
7. Upon late or nonrenewal of permit or license by a licensee or permit holder or upon late notification of a change of location. Renewal application and payment not received by the due date contained in the renewal notice and a failure to timely notify the commissioner of a change of address shall result in the licensee being moved to an unlicensed status and may result in an inspection by the Bedding Program to determine if the licensee continues in

business. If the licensee continues to operate, a license or permit shall not be issued until a program inspection occurs and the requirements of the law are satisfied.

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

B. Request for information, documents; verifications.

1. Upon complaint, the commissioner may request that a licensee provide information and documentation to substantiate its compliance with the requirements of this chapter. The commissioner may also require that the accuracy and completeness of such information and documentation be verified.

2. Upon a finding that a licensee has failed to timely and fully comply with a request for information and documents issued by the commissioner, or failed to substantiate the accuracy and completeness of such information and documentation, a review may be conducted by the Bedding Program.

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

C. Inspections of unlicensed entities. Inspections of unlicensed entities and of retailers of bedding and upholstered furniture may be conducted in accordance with § 32.1-25 of the Code of Virginia.

Inspections shall be conducted upon receipt of application for a permit or license by an unlicensed entity.

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

A. Every importer of and every person manufacturing a new item of bedding or upholstered furniture shall attach securely thereto a substantial white cloth tag (law label) or equivalent, visible on the outside covering of such item and not less than six square inches in size, upon which shall be plainly stamped or printed, in English, the name and address of the manufacturer, importer, or distributor, the registration number of the manufacturer or importer, the kind of filling material used therein, a statement that the filling materials are new, and the number of the permit issued to the person sterilizing any new feathers, hair, or down in such item.

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

required statements. No one may possess such law labels outside that facility unless by prior approval of the commissioner for correction purposes.

C. Any person sanitizing, remaking, renovating, or reupholstering any secondhand item of bedding or upholstered furniture, or manufacturing any item of bedding or upholstered furniture containing any shoddy or secondhand filling material, shall attach securely to it a substantial yellow cloth tag or equivalent (law label), visible on the outside of such item and not less than six square inches in size, upon which shall be stamped or printed, in English, the kind of filling materials used therein, a statement that the item or filling materials are secondhand, and the number of the permit issued to the person who sanitized such item or filling material. This requirement shall not apply to mattresses that contain a shoddy pad unless it otherwise contains secondhand filling materials.

D. Any person shipping or delivering filling material, however contained, shall have conspicuously attached thereto a law label upon which shall be stamped or printed, as provided in §32.1-219 of the Code of Virginia or as provided in this chapter, the kind of material, whether the material is

new or secondhand, the name, address, and registration number of the manufacturer or importer, and the permit number of the person who sterilized or sanitized such material.

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

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

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

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

ATTACHMENT 1

THE FOLLOWING LABELS COMPLY WITH THE VIRGINIA LAW

NO. 1

WHITE LABEL FOR ALL NEW MATERIAL

For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

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

⇒

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

⇒

See NOTE (3) at bottom of page. →

Required in Virginia →

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

ALL NEW MATERIAL

CONSISTING OF

REG. NO.

Certification is made by the manufacturer that the materials in this article are described in accordance with law.

Regulations

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

→

MADE BY
(NAME OF MANUFACTURER OR VENDOR)
(ADDRESS OF MANUFACTURER OR VENDOR)
Date of Delivery

(Additional Information)

Note:

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

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

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by

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

ATTACHMENT 2

NO. 2

WHITE LABEL FOR ALL NEW MATERIAL ARTICLES WITH EXTRA CUSHIONS AS AN INTEGRAL PART OF UNIT

For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

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

→

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

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

ALL NEW MATERIAL

CONSISTING OF

BODY

CUSHIONS

REG. NO.

Certification is made by the manufacturer

See NOTE (3) at bottom of page. →

Required in Virginia →

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

⇒

that the materials in this article are described in accordance with law.

MADE BY

(NAME OF MANUFACTURER OR VENDOR)

(ADDRESS OF MANUFACTURER OR VENDOR)

Date of Delivery

(Additional Information)

Note:

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

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

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by

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

ATTACHMENT 3

NO. 3

WHITE LABEL FOR ALL NEW MATERIAL

For Animal and Fowl and Any Other Filling Material Requiring Sterilization

SPACE TO ATTACH →

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

⇒

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

⇒

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

ALL NEW MATERIAL

CONSISTING OF

REG. NO.

PERMIT NO.

See NOTE (3) at bottom of page. →

Regulations

Required in Virginia →

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

→

Note:

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

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

(3) Virginia approves and recognizes the uniform registry number and will accept the registration number issued by another state, if registrant so desires, providing such registration follows the policy of uniform registration. This

Certification is made by the manufacturer that the materials in this article are described in accordance with law.

CONTENTS
STERILIZED

MADE BY

(NAME OF MANUFACTURER OR VENDOR)

(ADDRESS OF MANUFACTURER OR VENDOR)

Date of Delivery

(Additional Information)

policy is intended to benefit the registrant by requiring but one registration to be imprinted on the law label used, regardless of where merchandise may be shipped. The registration number shall be preceded by name of state (may be abbreviated) issuing REG. NO. and if factory is located in another state than that issuing REG. NO., then name of state in which factory is located shall follow the registration number in parenthesis.

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

ATTACHMENT 4

NO. 4

YELLOW LABEL FOR ARTICLES THAT HAVE BEEN REMADE AND RENOVATED FOR CONSUMER AND THAT CONTAIN SECONDHAND MATERIAL IN WHOLE OR IN PART

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

SPACE TO ATTACH →

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

→

Space for description of filling material.

Printing to be in English using capital letters not less than 3mm in height

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

This article contains the same material received from the owner, to which has been added the following New material.

⇒

Registration number or name of person or firm that renovated article →

The following work has been done:

YES NO

Old covering completely removed

Frame repaired

Spring retied and/or repaired

OTHER:

REG. NO. VA.

This article must not be sold, it is the property of and must be returned to:

Name

Address

REMADE AND RENOVATED BY

Date

(Additional Information)

Note:

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

(2) Size of label: Exclusive of the portion required to affix the tag to the article, the minimum size of the tag shall be not

less than (six) square inches, but may be greater as the need demands.

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

ATTACHMENT 5

NO. 5

YELLOW LABEL FOR ARTICLES CONTAINING

ALL SECONDHAND MATERIAL OFFERED

FOR SALE OR RENT "AS IS"

REQUIRED TO BE SANITIZED

SPACE TO ATTACH →

Empty rectangular box for attachment.

Regulations

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

→

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

→

Permit number of person or firm who sanitized

article →

Required in Virginia →

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

THIS ARTICLE CONTAINS

ALL SECOND-HAND MATERIAL

CONTENTS UNKNOWN

PERMIT NO.

Certification is made by the manufacturer

that the materials in this article are

described in accordance with law.

SANITIZED

SANITIZED BY

Date Sanitized

(Additional Information)

Note:

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

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

ATTACHMENT 6

NO. 6

YELLOW LABEL FOR ARTICLES THAT HAVE BEEN RENOVATED

FOR RESALE AND THAT CONTAIN

SECONDHAND MATERIAL IN WHOLE OR IN PART

REQUIRED TO BE SANITIZED

SPACE TO ATTACH →

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

UNDER PENALTY OF LAW THIS TAG NOT TO BE

⇒

Space for description of filling material.
Printing to be in English using capital letters
not less than 3mm in height

⇒

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

⇒

Required in Virginia →

REMOVED EXCEPT BY CONSUMER

THIS ARTICLE CONTAINS

SECOND HAND MATERIAL
TO WHICH HAS BEEN ADDED

REG. NO. PERMIT NO.

Certification is made by the manufacturer
that the materials in this article are
described in accordance with the law.

CONTENTS
SANITIZED

REMADE AND RENOVATED BY

RENOVATOR NAME

RENOVATOR ADDRESS

Date Sanitized

(Additional Information)

Note:

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

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

ATTACHMENT 7

NO. 7

WHITE LABEL FOR ALL NEW MATERIAL
ARTICLES IMPORTED INTO THE UNITED STATES
For Filling Material NOT Requiring Sterilization

SPACE TO ATTACH →

Regulations

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

⇒

Space for description of filling material.

Printing to be in English using capital letters

not less than 3mm in height

⇒

See NOTE (3) at bottom of page. →

Required in Virginia →

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

⇒

Name of country where factory is located

⇒

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

ALL NEW MATERIAL

CONSISTING OF

REG. NO.

Certification is made by the manufacturer

that the materials in this article are

described in accordance with law.

IMPORTED BY

Date of Delivery

MADE IN

Note:

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

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

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

abbreviation of the country in which factory is located shall follow the registration number in parenthesis.

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

A. No person engaged in commerce shall rent, offer or expose for sale, barter, give away, or dispose of in any other commercial manner any article of bedding or upholstered furniture made, remade, reupholstered or renovated in violation of §32.1-213 or 32.1-214 of the Code of Virginia or any secondhand article of bedding or upholstered furniture unless since last used such secondhand article has been sanitized by a reasonable process approved by the commissioner. However, a retailer may sell, give away, or rent used upholstered furniture when the used upholstered furniture has been purchased by the retailer as new furniture and has been used in the course of business. Such used furniture shall be (i) conspicuously identified as used

furniture and (ii) reduced in price, sold at auction, donated to charity, or made available for a rental fee, and so tagged.

B. No person shall use in the making, remaking, reupholstering or renovating of any bedding or upholstered furniture any shoddy or any fabric from which shoddy is made or any secondhand filling material or any secondhand feathers, animal hair or down, unless such shoddy, secondhand filling material, feathers, animal hair or down has been sanitized by a reasonable process approved by the commissioner.

C. Steri-Fab or Microban, or a comparable product approved by the commissioner meeting all the qualities and specifications of these chemicals, are the industry-recognized chemicals for sanitizing and disinfecting mattresses, bedding or upholstered furniture. This process is required for any business sanitizing used, secondhand or renovated mattresses, box springs, or similar articles of bedding or upholstered furniture offered for resale or rent in Virginia. The use of these chemicals in compliance with the specific instructions from the product manufacturers is deemed a reasonable sanitization process approved by the commissioner. All licensees are required to follow all product application, safety, storage, and disposal instructions provided by the product manufacturers. It is a violation of federal law to use Steri-Fab or Microban disinfectant in a manner inconsistent with its labeling. Diluting or mixing with other chemicals is prohibited.

D. Yellow law labels must be attached and dated as soon as sanitizing process is completed.

E. Persons donating (no monetary exchange) secondhand articles of bedding and upholstered furniture are not required to sanitize those articles if the donation is to a holder of a valid sanitizing permit. Any items sold (monetary exchange) must be sanitized first.

F. Persons dealing in used bedding and upholstered furniture shall maintain a log of sanitized items, indicating identification of item, date sanitized, and date rented or sold.

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

No person shall use in the making, remaking, reupholstering or renovating of any bedding or upholstered furniture any new animal hair, new feathers, or new down unless such new animal hair, new feathers, or new down shall have been sterilized by a reasonable process approved by the commissioner.

12VAC5-125-120. Separation and storage of new and sanitized items.

A. New and sanitized upholstered furniture, bedding and filling materials shall be kept separate from any secondhand upholstered furniture, bedding and filling materials that have not been sanitized. To prevent contamination, a distance of at

least 20 feet or a dividing wall must be kept between new and sanitized articles, and unsanitized used articles of bedding and upholstered furniture.

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

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

12VAC5-125-130. Violation of regulations.

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

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

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

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

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

Regulations

of the Code of Virginia and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§59.1-196 et seq. of the Code of Virginia).

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

12VAC5-125-140. Enforcement of regulation.

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

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

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

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

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

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

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

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

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

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

1. Informal hearings. An informal hearing is a meeting with the Bedding Program Supervisor presiding and held in conformance with §2.2-4019 of the Code of Virginia.

2. Adjudicatory hearing. The adjudicatory hearing is a formal, public adjudicatory proceeding before the commissioner, or his designated hearing officer, and held in conformance with §2.2-4020 of the Code of Virginia.

12VAC5-125-150. Request for hearing.

A request for an informal hearing shall be made by sending the request in writing to the Bedding Program. Requests for hearings shall cite the reasons for the hearing request and shall cite the section(s) of these regulations involved and must be received within 15 days of the decision by the department that lead to the hearing request.

12VAC5-125-160. Hearing as a matter of right.

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

12VAC5-125-170. Penalties, injunctions, civil penalties and charges for violations.

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

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

C. Without limiting the remedies that may be obtained pursuant to subsection B of this section, any person violating

or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection B of this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$25,000 for each violation. Each day of violation shall constitute a separate offense.

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

12VAC5-125-180. Fees.

The board shall set the annual fees imposed for licenses and permits issued pursuant to this chapter. All fees collected shall be deposited and held by the department in a separate fund, from which shall be paid all expenditures necessary in carrying out the provisions of this chapter.

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

The fee schedule established by the board is as follows:

<u>Vendor Description:</u>	<u>Annual Fee:</u>
<u>Manufacturer of bedding</u>	<u>\$100</u>
<u>Manufacturer of upholstered furniture</u>	<u>\$100</u>
<u>Renovator (bedding)</u>	<u>\$25</u>
<u>Reupholsterer</u>	<u>\$25</u>
<u>Supply dealer</u>	<u>\$25</u>
<u>Importer</u>	<u>\$100</u>
<u>Sanitizer</u>	<u>\$60</u>
<u>Distributor/wholesaler</u>	<u>\$100</u>

DOCUMENTS INCORPORATED BY REFERENCE

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

VA.R. Doc. No. R04-166; Filed June 27, 2007, 9 a.m.



TITLE 13. HOUSING

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to Statewide Fire Prevention Code (§27-94 et seq.), the Industrialized Building Safety Law (§36-70 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and §36-98.3 of the Code of Virginia, provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

Title of Regulation: **13VAC5-31. Virginia Amusement Device Regulations (amending 13VAC5-31-20, 13VAC5-31-30, 13VAC5-31-40, 13VAC5-31-210; adding 13VAC5-31-75, 13VAC5-31-85, 13VAC5-31-220, 13VAC5-31-230, 13VAC5-31-240, 13VAC5-31-250, 13VAC5-31-260, 13VAC5-31-270, repealing 13VAC5-31-70, 13VAC5-31-80, 13VAC5-31-90, 13VAC5-31-100, 13VAC5-31-110, 13VAC5-31-120, 13VAC5-31-130, 13VAC5-31-140, 13VAC5-31-150, 13VAC5-31-160, 13VAC5-31-170).**

Statutory Authority: §36-98.3 of the Code of Virginia.

Public Hearing Information:

July 24, 2007 - 10 a.m. - Greater Richmond Convention Center, 403 North Third Street, Room B-10 (Lecture Hall), Richmond, VA

Public comments: Public comments may be submitted until September 23, 2007.

Agency Contact: Steve Calhoun, Regulatory Coordinator, Department of Housing and Community Development, 501 North Second Street, Richmond, VA, 23219, telephone 804-371-7015, FAX 804-371-7090, or email steve.calhoun@dhcd.virginia.gov.

Summary:

The Virginia Amusement Device Regulations (VADR) are regulations governing the construction and operation of amusement devices, which are by statutory definition devices or structures open to the public by which persons are conveyed or moved in an unusual manner for diversion and passenger tramways. The regulations are very closely related to the Virginia Uniform Statewide Building Code (13 VAC 5-63) as, also by statutory arrangement, the

Regulations

USBC applies to amusement devices to the extent that they are not superseded by the VADR. The VADR utilizes nationally recognized standards to provide the technical requirements for the construction and operation of amusement devices. The standards are produced by the American Society for Testing and Materials and new standards are developed from time and time and when available are considered for incorporation into the VADR. To coincide with the updating of its other building and fire regulations, the Board of Housing and Community Development initiates a regulatory action to incorporate the newer standards into the regulations through the publishing of a proposed regulation. Those affected by the regulations then review the proposed regulations to assure that the newest standards reflect the minimum standards necessary for the safe construction and operation of amusement devices. After the publishing of the proposed regulations, the board establishes a comment period for the acceptance of code change proposals to modify the standards or any provisions of the entire regulation. Code change proposals are assimilated into a compilation document containing a staff evaluation of each proposal and the compilation document is reviewed by client groups during a second comment period and additional comment on each proposal is accepted. A public hearing is also held. The board then considers all comments on all proposals and develops a final regulation to complete the regulatory process.

Changes in the proposed regulation may be categorized into two groups. The first are changes necessary to incorporate the newest editions of the nationally recognized standards into the regulations. These changes are located in § 13 VAC 5-31-40.

The second group of changes are general clarifications and correlation changes. These changes are simply to more closely match legislative language and to coordinate the application of the regulations with the other building and fire regulations of the board. This group of changes were developed by an Amusement Technical Advisory Committee, an advisory committee appointed by the board pursuant to § 36-98.3 of the Code of Virginia and consisting of five members, who by virtue of their education, training or employment, have demonstrated adequate knowledge of amusement devices or the amusement device industry. This group of changes is summarized below by section number.

13 VAC 5-31-30: Clarification of exemptions from the regulations to include new language for water slides used in community club swimming pools.

13 VAC 5-31-70 – 13 VAC 5-31-85: Combining the owner and operator responsibilities with the local building department responsibilities to provide a more logical

arrangement of the requirements without any substantive changes.

13 VAC 5-31-75(C): Change in the liability insurance requirements based on standard industry practice and a more standardized wording of the requirements.

13 VAC 5-31-75(E): Adding a requirement that the local building department personnel verify that a private inspector being utilized to inspect amusement devices is properly certified under the board's amusement device inspector certification program.

13 VAC 5-31-210: Adding an allowance for rock-climbing walls which have a valid certification of inspection to be moved and setup at a different location provided the certificate of inspection was issued within the past 90 days.

Part VIII – Bungee Jumping: Moving the requirements to the end of the regulation without any substantive changes.

As discussed above in the description of the procedures the board uses to update its building and fire regulations, since all the regulations are interrelated and must be coordinated, the board will consider code change proposals on all provisions of this regulation during the comment period after the proposed regulations are published.

13VAC5-31-20. Definitions.

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

"Amusement device" means (i) a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion and (ii) passenger tramways.

"Bungee cord" means the elastic rope to which the jumper is attached which lengthens and shortens to produce a bouncing action.

"Carabineer" means a shaped metal device with a gate used to connect sections of a bungee cord, jump rigging, equipment, or safety gear.

"DHCD" means the Virginia Department of Housing and Community Development.

"Gravity ride" means a ride that is installed on an inclined surface, which depends on gravity for its operation to convey a passenger from the top of the incline to the bottom, and which conveys a passenger in or on a carrier tube, bag, bathing suit, or clothes.

"Ground operator" means a person who assists the jump master to prepare a jumper for jumping.

"Harness" means an assembly to be worn by a bungee jumper to be attached to a bungee cord. It is designed to

prevent the wearer from becoming detached from the bungee system.

"Jump master" means a person who has responsibility for the bungee jumper and who takes the jumper through the final stages to the actual jump.

"Jump zone" means the space bounded by the maximum designed movements of the bungee jumper.

"Jumper" means the person who departs from a height attached to a bungee system.

"Landing area" means the surface area of ground or water directly under the jump zone, the area where the lowering device moves the bungee jumper to be landed away from the jump space and the area covered by the movement of the lowering device.

"Local building department" means the agency or agencies of the governing body of any city, county or town in this Commonwealth charged with the enforcement of the USBC.

"Operating manual" means the document that contains the procedures and forms for the operation of bungee jumping equipment and activity at a site.

"Passenger tramway" means a device used to transport passengers uphill, and suspended in the air by the use of steel cables, chains or belts, or ropes, and usually supported by trestles or towers with one or more spans.

"Platform" means the equipment attached to the structure from which the bungee jumper departs.

"Private inspector" means a person performing inspections who is independent of the company, individual or organization owning, operating or having any vested interest in an amusement device being inspected.

"Ultimate tensile strength" means the greatest amount of load applied to a bungee cord prior to failure.

"USBC" means the Virginia Uniform Statewide Building Code (13VAC5-63).

B. Words and terms used in this chapter which are defined in the USBC shall have the meaning ascribed to them in that regulation unless the context clearly indicates otherwise.

C. Words and terms used in this chapter which are defined in the standards incorporated by reference in this chapter shall have the meaning ascribed to them in those standards unless the context clearly indicates otherwise.

13VAC5-31-30. Exemptions.

The following equipment or devices shall not be considered amusement devices subject to this chapter:

1. Nonmechanized playground or recreational equipment such as swing sets, sliding boards, climbing bars, jungle gyms, skateboard ramps and similar equipment where no

admission fee is charged for its use or for admittance to areas where the equipment is located ~~and three or less passenger, coin-operated~~ ;

2. Coin-operated rides shall not be amusement devices subject to this chapter designed to accommodate three or less passengers; and

3. Water slides or similar equipment used in community association, community club or community organization swimming pools.

13VAC5-31-40. Incorporated standards.

A. The following standards are hereby incorporated by reference for use as part of this chapter:

1. American National Standards Institute (ANSI) Standard No. ~~B77.1-1999~~ B77.1-2006 for the regulation of passenger tramways; and
2. American Society for Testing and Materials (ASTM) Standard Nos. F698-94 (Reapproved 2000), ~~F747-97~~ F747-06, ~~F770-93 (2000)~~ F770-06a, F846-92 (Reapproved 2003), ~~F853-04~~ F853-05, ~~F893-04~~ F893-05a, F1159-03a, ~~F1193-04~~ F1193-06, F1305-94 (Reapproved 2002), F1950-99, F1957-99 (Reapproved 2004), ~~F2007-00~~ F2007-06, ~~F2137-01~~ F2137-04, ~~F2291-04~~ and F2374-04 ~~F2291-06a~~, ~~F2374-06~~ and F2376-06 for the regulation of amusement devices.

The standards referenced above may be procured from:

ANSI	ASTM
25 W 43rd Street	100 Barr Harbor Dr.
New York, NY	West Conshohocken, PA
10036	19428-2959

B. The provisions of this chapter govern where they are in conflict with any provisions of the standards incorporated by reference in this chapter.

C. The following requirements supplement the provisions of the ASTM standards incorporated by reference in this chapter:

1. The operator of an amusement device shall be at least 16 years of age, except when the person is under the supervision of a parent or guardian and engaged in activities determined not to be hazardous by the Commissioner of the Virginia Department of Labor and Industry;
2. The amusement device shall be attended by an operator at all times during operation except that (i) one operator is permitted to operate two or more amusement devices provided they are within the sight of the operator and operated by a common control panel or station and (ii) one operator is permitted to operate two kiddie rides with separate controls provided the distance between controls is no more than 35 feet and the controls are equipped with a positive pressure switch; and

Regulations

3. The operator of an amusement device shall not be (i) under the influence of any drugs which may affect the operator's judgment or ability to assure the safety of the public or (ii) under the influence of alcohol.

D. Where an amusement device was manufactured under previous editions of the standards incorporated by reference in this chapter, the previous editions shall apply to the extent that they are different from the current standards.

Part II

Owner or Operator Responsibilities Enforcement, Permits and Certificates of Inspection

13VAC5-31-70. Inspections. (Repealed.)

~~The owner or operator of an amusement device shall be permitted to engage a private inspector to provide the necessary inspections for obtaining a certificate of inspection for an amusement device. If a private inspector is to be used, the owner or operator shall notify the responsible local building department as soon as practical. If a private inspector is not to be used, the owner or operator shall give reasonable notice to the responsible local building department when an inspection for issuing a certificate of inspection is sought. The owner or operator may designate the specific day for the inspection to take place provided it is during the local building department's normal work week.~~

13VAC5-31-75. Local building department.

A. In accordance with §§36-98.3 and 36-105 of the Code of Virginia, the local building department shall be responsible for the enforcement of this chapter and may charge fees for such enforcement activity. The total amount charged for any one permit to operate an amusement device or devices or the renewal of such permit shall not exceed the following, except that when a private inspector is used, the fees shall be reduced by 50%:

1. \$25 for each kiddie ride covered by the permit;
2. \$35 for each circular ride or flat-ride less than 20 feet in height covered by the permit;
3. \$55 for each spectacular ride covered by the permit that cannot be inspected as a circular ride or flat-ride in subdivision 2 of this subsection due to complexity or height; and
4. \$150 for each coaster covered by the permit that exceeds 30 feet in height.

B. Notwithstanding the provisions of subsection A of this section, when an amusement device is constructed in whole or in part at a site for permanent operation at that site and is not intended to be disassembled and moved to another site, then the local building department may utilize permit and inspection fees established pursuant to the USBC to defray the cost of enforcement. This authorization does not apply to

an amusement device that is only being reassembled, undergoing a major modification at a site or being moved to a site for operation.

C. A permit application shall be made to the local building department at least five days before the date in which the applicant intends to operate an amusement device. The application shall include the name of the owner, operator or other person assuming responsibility for the device or devices, a general description of the device or devices including any serial or identification numbers available, the location of the property on which the device or devices will be operated and the length of time of operation. The permit application shall indicate whether a private inspector will be utilized. If a private inspector is not utilized, the applicant shall give reasonable notice when an inspection is sought and may stipulate the day such inspection is requested provided it is during the normal operating hours of the local building department. In addition to the information required on the permit application, the applicant shall provide proof of liability insurance of an amount not less than \$100,000 per person and \$1,000,000 in the aggregate for each amusement device insuring the owner or operator against liability for injury suffered by persons riding the amusement device or by persons in, on, under or near the amusement device; or proof of equivalent financial responsibility. The local building department shall be notified of any change in the liability insurance or financial responsibility during the period covered by the permit.

D. Notwithstanding the provisions of subsection C of this section, a permit application is not required for a kiddie ride in which the passenger height is 54 inches or less, the design capacity is for 12 passengers or less and that can be assembled in two hours or less, provided the kiddie ride has an unexpired certificate of inspection issued by any local building department in this Commonwealth. In such cases, the local building department shall be notified prior to the operation of the kiddie ride and the information required on a permit application as listed in subsection C of this section shall be provided to the local building department.

E. Local building department personnel shall examine the permit application within five days and issue the permit if all requirements are met. A certificate of inspection for each amusement device shall be issued when the device has been found to comply with this chapter by a private inspector or by an inspector from the local building department. It shall be the responsibility of the local building department to verify that the private inspector possesses a valid certificate of competence as an amusement device inspector from the Virginia Board of Housing and Community Development. In addition, local building department personnel shall be responsible for assuring that the certificate of inspection is posted or affixed on or in the vicinity of the device in a location visible to the public. Permits shall indicate the length of time the device or devices will be operated at the site.

clearly identify the device or devices to which it applies and the date of expiration of the permit. Permits shall not be valid for longer than one year.

F. In addition to obtaining a certificate of inspection in conjunction with a permit application, a new certificate of inspection shall also be obtained prior to the operation of an amusement device following a major modification, prior to each seasonal operation of a device and prior to resuming the operation of a device following an order from a local building department to cease operation. This requirement shall not apply to kiddie rides meeting the conditions outlined in subsection D of this section.

G. For amusement devices manufactured prior to 1978, the owner or operator shall have the information required by §§2.1 through 2.6 of ASTM F628 available at the time of inspection. In addition, the operator of any amusement device shall be responsible for obtaining all manufacturer's notifications, service bulletins and safety alerts issued pursuant to ASTM F853 and the operator shall comply with all recommendations and requirements set out in those documents. A copy of all such documents shall be made available during an inspection.

H. In the enforcement of this chapter, local building department personnel shall have authority to conduct inspections at any time an amusement device would normally be open for operation or at any other time if permission is granted by the owner or operator, to issue an order to temporarily cease operation of an amusement device upon the determination that the device may be unsafe or may otherwise endanger the public and to accept and approve or deny requests for modifications of the rules of this chapter in accordance with the modification provisions of the USBC.

13VAC5-31-80. Owner or operator responsibilities. (Repealed.)

~~In addition to other applicable requirements of this chapter, the owner or operator of an amusement device or devices shall be responsible for the following:~~

~~1. Submitting a permit application to the responsible local building department at least five days before a permit to operate, or renewal of a permit to operate, is sought. The permit application shall include (i) the name of the owner, operator or other person assuming responsibility; (ii) a general description of the device or devices to be permitted; (iii) any relevant serial or identification numbers; (iv) the location of the property on which the device or devices will be operated; and (v) the length of time the device or devices will be operating at the site;~~

~~2. Submitting an application for modification of any provision of this chapter when a modification is sought due to practical difficulties involved in complying with this chapter. The application for modification shall include documentation outlining the practical difficulties and~~

~~method proposed to protect the public health, safety and welfare;~~

~~3. Submitting to the responsible local building department before or with the application for a permit to operate, or renewal of a permit to operate, proof of liability insurance of an amount not less than \$500,000 per occurrence or proof of equivalent financial responsibility and notifying the responsible local building department promptly of any change in the liability insurance or financial responsibility status during the period of operation to be, or which is, authorized by the permit;~~

~~4. Obtaining a permit to operate from the responsible local building department prior to operation or obtaining the renewal of a permit to operate when necessary prior to continued operation. Notwithstanding the above, a permit for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site. However, in such cases, the responsible local building department shall be notified prior to operation and such notification shall include the information required on a permit application as stipulated in subdivision 1 of this subsection;~~

~~5. Making available to the inspector at the time of inspection for a certificate of inspection the information listed in §§2.1 through 2.6 of ASTM F698 when an amusement device was manufactured prior to 1978;~~

~~6. The operator of an amusement device shall review promptly upon receipt all manufacturer's notifications, service bulletins and safety alerts relating to such amusement device issued pursuant to ASTM F853. The operator of the amusement device shall comply with all recommendations and requirements set out in such documents as required by ASTM F853. A copy of each such document shall be retained by the operator. Whenever such amusement device is inspected pursuant to these regulations, the operator of the amusement device shall present each such document to the inspector. It is the responsibility of the operator of an amusement device to maintain contact with the manufacturer to insure that the manufacturer knows which devices are operated by the operator and to insure that the manufacturer has the current address of the operator.~~

~~7. Obtaining a certificate of inspection from the responsible local building department (i) prior to initial operation; (ii) prior to operation following a major modification; (iii) prior to each seasonal operation; (iv) at least once a year if operated more than seasonally; and (v) prior to resuming operation following an order from the~~

Regulations

~~local building department to cease operation. Notwithstanding the above, a certificate of inspection for a kiddie ride in which (i) the passenger height is limited to 54 inches or less; (ii) the design capacity is 12 passengers or less; and (iii) the assembly time is two hours or less need not be obtained if the device has an unexpired certificate of inspection issued by a local building department in this Commonwealth, regardless of whether the ride has been disassembled or moved to a new site; and~~

~~8. Ceasing operation upon receipt of a temporary order to cease operation issued by the responsible local building department.~~

13VAC5-31-85. Accidents involving serious injury or death.

A. If an accident involving serious injury or death occurs, the operation of an amusement device shall cease and the local building department shall be notified as soon as practicable, but in no case later than during the next working day. The operation of the device shall not resume until inspected by a private inspector or an inspector from the local building department, except where the owner or operator determines the cause was not related to malfunction or improper operation of the amusement device.

B. The owner or operator shall conduct an investigation of the accident including, at a minimum, an examination of the accident scene and interviews of any witnesses or persons involved in the accident. An accident investigation report shall be compiled which, at a minimum, shall contain a summary of the investigation and a description of the device involved, including its serial number and date of manufacture, if available. The report shall be submitted to the local building department within 24 hours of the accident except that if the local building department is closed during that period, then the report shall be submitted with four hours of the reopening of the department

C. Local building department personnel are authorized to investigate the accident and to issue an order to cease operation when warranted and to specify the conditions under which the device may resume operation. The amusement device shall be inspected prior to resuming operation either by an inspector from the local building department or by a private inspector and found to comply with this chapter.

13VAC5-31-90. Accidents. (Repealed.)

~~In the event of an accident involving serious injury or death the owner or operator shall:~~

- ~~1. Contact the responsible local building department as soon as practical, but not later than the next work day;~~
- ~~2. Cease operation until the responsible local building department approves resuming operation, except that approval from the responsible local building department for resuming operation is not required if the investigation~~

~~required by subdivision 3 of this section provides reasonable evidence that the serious injury or death was not related to malfunction or improper operation;~~

~~3. Conduct an investigation to include (i) an examination of the accident scene; (ii) an interview of any witnesses or persons involved in the accident; and (iii) compiling a written report. The report shall contain a summary of the investigation and a description of the device involved, including the name of the manufacturer, the serial number and the date of manufacture, if available; and~~

~~4. Submit the investigation report to the responsible local building department within 24 hours after the time of the accident except that if its office is closed during the 24-hour period, the report shall be submitted within four hours after the office reopens.~~

Part III

Enforcement

13VAC5-31-100. Local building department. (Repealed.)

~~The local building department's official or representative shall be permitted to do the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:~~

~~1. Collect fees for a permit to operate, renewal of a permit to operate and inspections conducted by staff to issue a certificate of inspection. The total for fees associated with one permit to operate and any associated inspections or one renewal of a permit to operate and any associated inspections shall not exceed the following:~~

- ~~a. \$25 for each kiddie ride under the permit;~~
- ~~b. \$35 for each circular ride or flat ride less than 20 feet in height under the permit;~~
- ~~c. \$55 for each spectacular ride under the permit that cannot be inspected as a circular ride or flat ride in subdivision 1 (b) of this section due to complexity or height; and~~
- ~~d. \$150 for coasters that exceed 30 feet in height.~~

~~Notwithstanding the above, the fee for each amusement device under the permit shall be reduced by 50% when the inspection for obtaining a certificate of inspection for that device is conducted by a private inspector;~~

~~2. In addition to the above, require permits and charge fees as appropriate under the USBC for amusement devices which are being initially constructed in whole or in part at a site within the jurisdiction for intended operation at that site. This authorization does not apply to an amusement device which is only being reassembled or undergoing a major modification at a site or being moved to a site for operation;~~

~~3. Approve modifications of this chapter upon determination that the public health, safety and welfare are assured;~~

~~4. Conduct an inspection at any time when the device would normally be open for operation, or at any other time if permission is granted by the owner or operator, for compliance with this chapter; and~~

~~5. Issue an order to temporarily cease the operation of an amusement device upon determination that it may be unsafe or otherwise endanger the public. The temporary order shall remain in effect until a new certificate of inspection is issued.~~

13VAC5-31-110. Enforcement. (Repealed.)

~~The local building department's official or representative shall enforce the provisions of this chapter as provided herein and as interpreted by the State Building Code Technical Review Board (TRB).~~

~~The local building department's official or representative shall be responsible for the following relative to an amusement device or devices intended to be, or being, operated at a site within their jurisdiction:~~

~~1. Approving or rejecting any application made for a permit to operate, or renewal of a permit to operate, within five days after submittal and issuing or renewing the permit when appropriate. The permit shall be issued or renewed for the length of time the device or devices will be operating at the site, except that if the length of time exceeds one year, the permit or renewal shall expire after one year. The permit to operate or renewed permit to operate shall state (i) the estimated length of time that the device or devices will be operated at the site; (ii) the name of, or otherwise identify, the device or devices covered by the permit; and (iii) the date when the permit expires;~~

~~2. When a certificate of inspection is sought by the owner or operator, conducting an inspection to assure compliance with this chapter unless the owner or operator is providing an approved private inspector. If the owner or operator has given reasonable notice that a certificate of inspection is sought and designated a specific day for the inspection, then the inspection shall be conducted on that day;~~

~~3. Accepting a written report of inspection from an approved private inspector;~~

~~4. When in receipt of a written report of inspection from an approved private inspector or after assuring compliance with this chapter through inspection, completing a certificate of inspection distributed by DHCD and causing the certificate to be posted or affixed on or in the vicinity of the device in a location visible to the public;~~

~~5. Accepting an existing certificate of inspection for a kiddie ride in which (i) the passenger height is limited to~~

~~54 inches or less; (ii) the capacity is 12 passengers or less; and (iii) the assembly time is two hours or less, provided the existing certificate of inspection for the ride was issued by a local building department in this Commonwealth less than one year prior to the date for which a certificate of inspection is sought, regardless of whether disassembly has occurred. Notwithstanding the above, if the kiddie ride is determined to be in violation of this chapter, the existing certificate of inspection shall not be valid; and~~

~~6. Issuing an order to cease operation upon discovery or notification that an accident involving the device has caused serious injury or death, except where the owner or operator has determined that the serious injury or death was not related to malfunction or improper operation of the device. Whether or not the order to cease operation has been issued, the official or representative shall conduct an inspection, or accept an inspection report from an approved private inspector, to assure the device complies with this chapter and is safe for operation.~~

Part IV

Bungee Jumping

13VAC5-31-120. General requirements. (Repealed.)

~~A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.~~

~~B. Bungee jumping operations which are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.~~

~~C. Bungee jumping activities which involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.~~

13VAC5-31-130. Bungee cords. (Repealed.)

~~A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:~~

~~1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and~~

~~2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.~~

~~B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the~~

Regulations

~~manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five-foot lengths.~~

13VAC5-31-140. ~~Jump hardware. (Repealed.)~~

~~Jump harnesses shall be either full body designed, which includes a waist harness worn in conjunction with a chest harness, or ankle designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.~~

13VAC5-31-150. ~~Structure requirements. (Repealed.)~~

~~Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.~~

13VAC5-31-160. ~~Operational and site requirements. (Repealed.)~~

~~A. Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.~~

~~B. The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.~~

~~C. All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.~~

~~D. A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch or locking mechanism that will stop the lowering action shall be used in a friction lowering system.~~

~~E. The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.~~

~~F. An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.~~

~~G. Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:~~

~~1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;~~

~~2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size which reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;~~

~~3. The landing vessel shall be readily available for the duration of the landing procedures;~~

~~4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;~~

~~5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and~~

~~6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.~~

~~H. Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:~~

~~1. Rescue equipment shall be available, such as a life ring or safety pole;~~

~~2. The jump space and landing area shall be fenced to exclude the public; and~~

~~3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.~~

~~I. Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.~~

13VAC5-31-170. ~~Management and personnel responsibilities. (Repealed.)~~

~~A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.~~

~~B. The site manager is responsible for the following:~~

- ~~1. Controlling the entire operation;~~
- ~~2. Site equipment and procedures;~~
- ~~3. Determining whether it is safe to jump;~~
- ~~4. Selection of, and any training of personnel;~~
- ~~5. Emergency procedures; and~~
- ~~6. Maintaining records.~~

~~C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:~~

- ~~1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;~~
- ~~2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;~~
- ~~3. Rescue and emergency procedures; and~~
- ~~4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.~~

~~D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:~~

- ~~1. Ensuring that the jumper is qualified to jump;~~
- ~~2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;~~
- ~~3. Assisting the jumper to the recovery area; and~~
- ~~4. Maintaining a clear view of the landing area.~~

~~E. Each site shall have an operating manual which shall include the following:~~

- ~~1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and~~
- ~~2. An emergency rescue plan.~~

~~F. The daily operating procedures shall be conducted in accordance with ASTM F770-93.~~

~~G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.~~

Part V

Gravity Rides

Part V III

Gravity Rides

Part VI IV

Concession Go-Karts

Part VII V

Inflatable Amusement Devices

Part VIII VI

Artificial Climbing Walls

13VAC5-31-210. General requirements.

In addition to other applicable requirements of this chapter, artificial climbing walls shall be operated, maintained and inspected in accordance with ASTM F1159.

Notwithstanding any requirements of this chapter to the contrary, an artificial climbing wall may be moved, setup and operated without obtaining a permit provided the wall has a valid certificate of inspection issued by a local building department within the prior 90 days.

Part VII

Bungee Jumping

13VAC5-31-220. General requirements.

A. The provisions of this part are specific to bungee jumping and are in addition to other applicable provisions of this chapter.

B. Bungee jumping operations that are open to the public shall be permitted from structures designed for use as part of the bungee jumping operation. Bungee jumping from other types of structures, cranes or derricks is not permitted for public participation.

C. Bungee jumping activities that involve double jumping, sandbagging, catapulting or stunt jumping shall not be permitted to be open for public participation.

13VAC5-31-230. Bungee cords.

A. Bungee cords shall be tested by an approved testing agency or by an engineer licensed in Virginia. The following criteria shall be met:

1. Each lot of bungee cords shall have a minimum of 10%, but not less than one of the cords tested to determine the lowest ultimate tensile strength of the cords tested. A load versus elongation curve based on the test result shall be provided with each lot of bungee cords; and

Regulations

2. The manufacturer shall specify the maximum number of jumps for which each cord or cord type is designed and the criteria for use of the cord.

B. Bungee cords shall be retired when the cords (i) exhibit deterioration or damage; (ii) do not react according to specifications; or (iii) have reached the maximum usage expressed in number of jumps as specified by the manufacturer. Bungee cords retired from use shall be destroyed immediately by cutting the cord into five-foot lengths.

13VAC5-31-240. Jump hardware.

Jump harnesses shall be either full body-designed, which includes a waist harness worn in conjunction with a chest harness, or ankle-designed with a link to a waist harness. All jump harnesses, carabineers, cables and other hardware shall be designed and manufactured for the purpose or designed or analyzed by an engineer licensed in Virginia and shall be used and maintained in accordance with the manufacturer's or engineer's instructions.

13VAC5-31-250. Structure requirements.

Structures constructed on site for bungee jumping activities shall be designed by an engineer licensed in Virginia. Structures manufactured for bungee jumping activities shall be analyzed by an engineer licensed in Virginia and assembled and supported in accordance with the manufacturer's instructions.

13VAC5-31-260. Operational and site requirements.

A. Operators shall follow the criteria provided by the manufacturer for the use of bungee cords. A record of the number of jumps with each cord shall be maintained. All cords shall be inspected daily for wear, slippage, or other abnormalities unless the manufacturer specifies more frequent inspections.

B. The jump master or site manager shall be responsible for determining the appropriate use of all bungee cords in relation to the weight of the jumper and height of the platform. Bungee cords shall be attached to the structure at all times when in the connection area.

C. All harnesses shall be inspected prior to harnessing a jumper and shall be removed from service when they exhibit signs of excessive wear or damage. All carabineers shall be inspected daily and shall be removed from service when they exhibit signs of excessive wear or damage or fail to function as designed. The anchors shall be inspected daily and shall be replaced if showing signs of excessive wear.

D. A secondary retrieval system shall be provided in all operations. A locking mechanism on the line shall be used to stop and hold the jumper in place after being pulled back to the jump platform in a retrieval system. A dead man's switch

or locking mechanism that will stop the lowering action shall be used in a friction lowering system.

E. The jump zone, preparation area and landing/recovery area shall be identified and maintained during bungee jumping activities. The landing/recovery area shall be accessible to emergency vehicles. Communication shall be maintained between all personnel involved with the jump.

F. An air bag, a minimum of 10 feet by 10 feet, shall be used. The air bag shall be rated for the maximum free fall height possible from the platform during operation. The air bag shall be located immediately below the jump space. The landing area shall be free of spectators and debris at all times and shall be free of any equipment or personnel when a jumper is being prepared on the jump platform and until the bungee cord is at its static extended state. A place to sit and recover shall be provided adjacent to, but outside, the landing area where the jumper shall be allowed to recover.

G. Where the jump space or landing area, or both, is over sea, lake, river, or harbor waters, the following shall apply:

1. The landing water area shall be at least nine feet deep and a minimum of 10 feet by 10 feet or have a minimum of 15 feet in diameter if circular;

2. The jump space and landing area shall be free of other vessels, floating and submerged objects and buoys. A sign of approved size that reads "Bungee Jumping! Keep Clear" shall be fixed to buoys on four sides of the landing area;

3. The landing vessel shall be readily available for the duration of the landing procedures;

4. The landing vessel shall have a landing pad size of at least five feet by five feet within and lower than the sides of the vessel;

5. A landing vessel shall be available that can be maneuvered in the range of water conditions expected and will enable staff to pick up a jumper; and

6. One person may operate the landing vessel where the vessel is positioned without the use of power. A separate person shall operate the vessel where power is required to maneuver into or hold the landing position.

H. Where the landing area is part of a swimming pool or the landing area is specifically constructed for bungee jumping, the following shall apply:

1. Rescue equipment shall be available, such as a life ring or safety pole;

2. The jump space and landing area shall be fenced to exclude the public; and

3. Only the operators of the bungee jump and jumper shall be within the jump zone and landing areas.

I. Storage shall be provided to protect equipment from physical, chemical and ultra-violet radiation damage. The storage shall be provided for any current, replacement and emergency equipment and organized for ready access and shall be secure against unauthorized entry.

13VAC5-31-270. Management and personnel responsibilities.

A. All bungee jumping activities shall have a minimum of one site manager, one jump master and one ground operator to be present at all times during operation of the bungee jump.

B. The site manager is responsible for the following:

1. Controlling the entire operation;
2. Site equipment and procedures;
3. Determining whether it is safe to jump;
4. Selection of, and any training of personnel;
5. Emergency procedures; and
6. Maintaining records.

C. A jump master shall be located at each jump platform and shall have thorough knowledge of, and is responsible for, the following:

1. Overseeing the processing of jumpers, selection of the bungee cord, adjustment of the rigging, final check of jumper's preparation, and countdown for and observation of the jump;
2. Verifying that the cord is attached to the structure at all times when the jumper is in the jump area;
3. Rescue and emergency procedures; and
4. Ensuring that the number of jumps undertaken in a given period of time will allow all personnel to safely carry out their responsibilities.

D. The ground operator shall have knowledge of all equipment used and of jump procedures and shall have the following responsibilities:

1. Ensuring that the jumper is qualified to jump;
2. Assisting the jump master to prepare the jumper and attach the jumper to the harness and rigging;
3. Assisting the jumper to the recovery area; and
4. Maintaining a clear view of the landing area.

E. Each site shall have an operating manual that shall include the following:

1. Site plan, job descriptions (including procedures), inspections and maintenance requirements of equipment including rigging, hardware, bungee cords, harnesses, and lifelines; and

2. An emergency rescue plan.

F. The daily operating procedures shall be conducted in accordance with ASTM F770.

G. The qualification and preparation of jumpers shall include obtaining any pertinent medical information, jumper weight and a briefing of jumping procedures and safety instructions.

DOCUMENTS INCORPORATED BY REFERENCE.

~~ASTM International Standards on Amusement Rides and Devices, 7th Edition, 2004.~~

F 698 – 94 (Reapproved 2000), Standard Specification for Physical Information to be Provided for Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 747 – 06, Standard Terminology Relating to Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 770 – 06a, Standard Practice for Ownership and Operation of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 846 – 92 (Reapproved 2003), Standard Guide for Testing Performance of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 853 – 05, Standard Practice for Maintenance Procedures for Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 893 – 05a, Standard Guide for Inspection of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1159 – 03a, Standard Practice for Design and Manufacture of Patron Directed, Artificial Climbing Walls, Dry Slide, Coin Operated and Purposeful Water Immersion Amusement Rides and Devices and Air-Supported Structures, ASTM International, West Conshohocken, PA 19428.

F 1193 – 06, Standard Practice for Quality, Manufacture, and Construction of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1305 – 94 (Reapproved 2002), Standard Guide for Classification of Amusement Rides and Device Related Injuries and Illnesses, ASTM International, West Conshohocken, PA 19428.

F 1950 – 99, Standard Specification for Physical Information to be Transferred With Used Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 1957 – 99 (Reapproved 2004), Standard Test Method for Composite Foam Hardness-Durometer Hardness, ASTM International, West Conshohocken, PA 19428.

Regulations

F 2007 – 06, Standard Practice for Classification, Design, Manufacture, and Operation of Concession Go-Karts and Facilities, ASTM International, West Conshohocken, PA 19428.

F 2137 – 04, Standard Practice for Measuring the Dynamic Characteristics of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 2291 – 06a, Standard Practice for Design of Amusement Rides and Devices, ASTM International, West Conshohocken, PA 19428.

F 2374 – 06, Standard Practice for Design, Manufacture, Operation, and Maintenance of Inflatable Amusement Devices, ASTM International, West Conshohocken, PA 19428.

F 2376 – 06, Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems, ASTM International, West Conshohocken, PA 19428.

VA.R. Doc. No. R07-123; Filed June 27, 2007, 9:59 a.m.

TITLE 13. HOUSING

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Proposed Regulation

REGISTRAR'S NOTICE: The Board of Housing and Community Development is claiming an exemption from the Administrative Act pursuant to §2.2-4006 A 13 of the Code of Virginia, which excludes regulations adopted by the Board of Housing and Community Development pursuant to Statewide Fire Prevention Code (§27-94 et seq.), the Industrialized Building Safety Law (§36-70 et seq.), the Uniform Statewide Building Code (§ 36-97 et seq.), and §36-98.3 of the Code of Virginia, provided the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of §2.2-4007.01, (ii) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in §2.2-4007.03, and (iii) conducts at least one public hearing as provided in §§2.2-4009 and 36-100 prior to the publishing of the proposed regulations.

Title of Regulation: **13VAC5-91. Virginia Industrialized Building Safety Regulations (amending 13VAC5-91-20, 13VAC5-91-100, 13VAC5-91-160, 13VAC5-91-270; repealing 13VAC5-91-110).**

Statutory Authority: §36-73 of the Code of Virginia.

Public Hearing Information:

July 24, 2007 - 10 a.m. - Greater Richmond Convention Center, 403 North Third Street, Room B-10 (Lecture Hall), Richmond, VA

Public Comments: Public comments may be submitted until September 23, 2007.

Agency Contact: Stephen W. Calhoun, Regulatory Coordinator, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219-1321, telephone 804-371-7000, FAX 804-371-7090, TTY 804-371-7089, or email steve.calhoun@dhcd.virginia.gov.

Preamble:

The Virginia Industrialized Building Safety Regulations (IBSR) are regulations governing the in-factory construction of industrialized buildings, which are also known as modular buildings. The regulations provide the same standards for construction as those buildings constructed on-site and regulated by the Virginia Uniform Statewide Building Code (13 VAC 5-63) (the "USBC"). Both regulations utilize nationally recognized model building codes and standards to provide the technical requirements for the actual construction of the regulated buildings. The model codes are produced by the International Code Council and every three years new editions of the model codes become available.

Summary:

Changes in the proposed regulation may be categorized into two groups. The first are changes necessary to incorporate the newest editions of the nationally recognized model codes and standards into the regulations. The newest editions of the model codes are the 2006 editions.

The second group of changes consists of general clarifications and correlation changes. These changes are simply to more closely match legislative language and to coordinate the application of the regulations with the USBC and with the Virginia Manufactured Home Safety Regulations (13 VAC 5-95).

13VAC5-91-20. Application and compliance.

A. This chapter shall apply to industrialized buildings. The following provisions are in accordance with §36-81 of the Code of Virginia: registered industrialized buildings shall be acceptable in all localities as meeting the requirements of the Industrialized Building Safety Law (Chapter 4 (§36-70 et seq.) of Title 36 of the Code of Virginia), which shall supersede the building codes and regulations of the counties, municipalities and state agencies. Local requirements affecting industrialized buildings, including zoning, utility connections, preparation of the site and maintenance of the unit shall remain in full force and effect. All building officials are authorized to and shall enforce the provisions of this law, and the rules and regulations made in pursuance thereof.

B. No person, firm or corporation shall offer for sale or rental, or sell or rent, any industrialized building produced

~~after the effective date of subject to any provision provisions of this chapter unless it conforms with such provision if the industrialized building is not in compliance with any such provisions.~~

~~C. Industrialized buildings subject to any edition of this chapter when constructed shall be maintained in compliance with the applicable edition by the owners or occupants, or both. In accordance with subsection A of this section, the provisions of the USBC shall not be applicable to the design and construction of registered industrialized buildings. However, the provisions of this chapter do not prohibit the administrative provisions of the USBC for permits, inspections, certificates of occupancy and other matters from being applicable to the extent they are not addressed by the requirements of this chapter. Additionally, the provisions of this chapter do not prohibit alterations and additions to existing industrialized buildings from being regulated by the USBC or building officials from requiring the submission of plans and specifications for the model involved in electronic or other available format to aid in the evaluation of the proposed addition or alteration.~~

~~D. Industrialized buildings constructed prior to January 1, 1972, shall be remain subject to the ordinances, laws or regulations in effect at the time such industrialized building was constructed. Additionally, the provisions of this chapter do not prohibit pertinent provisions of the USBC from being applicable when such industrialized buildings are relocated.~~

13VAC5-91-100. Responsibility Duties and responsibilities of building officials in the installation or erection of a registered industrialized building.

~~Every building official is authorized to and shall enforce the provisions of this chapter within the limits of his jurisdiction. The building official shall not permit the use of any industrialized building that does not comply with this chapter.~~

~~A. Building officials shall carry out the following functions provided such functions do not involve disassembly of the registered building or a change in its design or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.~~

~~1. Verify through inspection that the registered industrialized building displays the required state registration seal and the proper label of the compliance assurance agency and has not been damaged in transit to a degree that would render it unsafe. If the building has been damaged, then the building official is authorized to require tests for tightness of plumbing systems and gas piping and tests for damaged or loose wires, or both, in the electrical system.~~

~~2. Verify through inspection that (i) supplemental components required by the data plate or by the installation instructions are properly provided and properly installed, (ii) the construction work associated with the installation of~~

~~the building and the instructions from the manufacturer for the installation and erection of the building are followed, and (iii) any special conditions or limitations of use for the building that are stipulated in the manufacturer's instructions or by the data plate and authorized by this chapter are followed.~~

~~B. Building officials are authorized to require submission of plans and specifications for details of items needed to comprise the finished building that are not included or specified in the manufacturer's installation instructions such as footings, foundations, supporting structures and proper anchorage. They may require such architectural and engineering services as may be necessary to assure that the footings, foundations and supporting structures, proper anchorage and other components necessary to comprise the finished building are designed in accordance with the applicable provisions of this chapter.~~

~~C. When a building official determines that a violation of any provision of this section is present, the responsible person shall be notified and given a reasonable time to correct the violation. If the violation is not corrected, the building official shall institute the appropriate proceedings to require correction or abatement of the violation and may prohibit the occupancy of the building until the violation is corrected. In accordance with 13VAC5-91-60, the administrator shall also have the authority to compel correction of violations of this section and may be contacted by the building official for assistance.~~

13VAC5-91-110.—Registered industrialized buildings. (Repealed.)

~~Industrialized buildings that are registered shall be accepted in all localities as meeting the requirements of this law. Notwithstanding this provision, building officials are authorized to carry out the following functions that apply to registered industrialized buildings provided such functions do not involve disassembly of the registered building or a change in its design or result in the imposition of more stringent conditions than those required by the compliance assurance agency or by this chapter.~~

~~1. Building officials shall verify that the registered industrialized building has not been damaged in transit to a degree that would render it unsafe. Where indicated, this may include tests for tightness of plumbing systems and gas piping and tests for damaged or loose wires, or both, in the electrical system.~~

~~2. Building officials shall verify that supplemental components required by the label or by this chapter are properly provided.~~

~~3. Building officials shall verify that the instructions of the label for installation and erection are observed.~~

Regulations

~~4. Building officials shall verify that any special conditions or limitations of use that are stipulated by the label and authorized by this chapter are observed.~~

~~5. Building officials may require submission and approval of plans and specifications for items not included or specified in the manufacturer's installation instructions such as the supporting structures, foundations and anchorage and all other components necessary to form the completed building. They may require such architectural and engineering services as may be specifically authorized by this chapter to assure that the supporting structures, foundations and anchorage and other components necessary to form the completed building are designed in accordance with this chapter.~~

~~6. Building officials shall enforce applicable requirements of this chapter and the USBC for alterations and additions to the units or to the buildings. As an aid, they may require submission of plans and specifications of the model of the unit. Such plans and specifications may be furnished on approved microfilm.~~

~~7. Building officials shall enforce the requirements of the USBC applicable to utility connections, site preparation, building permits, certificates of use and occupancy, and all other applicable requirements of the USBC, except those governing the design and construction of the registered building.~~

~~8. Building officials shall verify that the building displays the required state registration seal and the proper label of the compliance assurance agency.~~

13VAC5-91-160. Use of model codes and standards.

A. Industrialized buildings produced after ~~November 16, 2005~~ (effective date of final regulation to be inserted), shall be reasonably safe for the users and shall provide reasonable protection to the public against hazards to life, health and property. Compliance with all applicable requirements of the following codes and standards, subject to the specified time limitations, shall be acceptable evidence of compliance with this provision:

The following codes and standards may be used until ~~February 16, 2006~~ (date three months after above date to be inserted):

1. ICC International Building Code—~~2000~~ 2003 Edition
2. ICC International Plumbing Code—~~2000~~ 2003 Edition
3. ICC International Mechanical Code—~~2000~~ 2003 Edition
4. National Fire Protection Association Standard Number 70 (National Electrical Code)—~~1999~~ 2002 Edition
5. ICC International Residential Code—~~2000~~ 2003 Edition

B. The following documents are adopted and incorporated by reference to be an enforceable part of this chapter:

1. ICC International Building Code—~~2003~~ 2006 Edition
2. ICC International Plumbing Code—~~2003~~ 2006 Edition
3. ICC International Mechanical Code—~~2003~~ 2006 Edition
4. National Electrical Code—~~2002~~ 2005 Edition
5. ICC International Residential Code—~~2003~~ 2006 Edition

The codes and standards referenced above may be procured from:

International Code Council, Inc.
5203 Leesburg Pike, Suite 600
Falls Church, VA 22041

13VAC5-91-270. Manufacturer's installation instructions and responsibilities of installers.

A. The manufacturer of each industrialized building shall provide specifications or instructions, or both, with each building for handling, installing or erecting the building. Such instructions may be included as part of the label from the compliance assurance agency or may be furnished separately by the manufacturer of the building. The manufacturer shall not be required to provide the foundation and anchoring equipment for the industrialized building.

B. Persons or firms installing or erecting registered industrialized buildings shall install or erect the building in accordance with the manufacturer's instructions.

C. Where the installation or erection of an industrialized building utilizes components that are to be concealed, the installer shall notify and obtain approval from the building official prior to concealment of such components unless the building official has agreed to an alternative method of verification.

DOCUMENTS INCORPORATED BY REFERENCE

ICC International Plumbing Code—~~2000 and 2003~~ and 2006 Editions, International Code Council.

ICC International Mechanical Code—~~2000 and 2003~~ and 2006 Editions, International Code Council.

National Fire Protection Association Standard Number 70 (National Electrical Code)—~~1999 and 2002~~ and 2005 Editions.

ICC International Building Code—~~2000 and 2003~~ and 2006 Editions, International Code Council.

ICC International Residential Code—~~2000 and 2003~~ and 2006 Editions, International Code Council.

ASTM Standard Number E541-01—Standard Specification for Agencies Engaged in System Analysis and Compliance Assurance for Manufactured Building, American Society for Testing and Materials.

TITLE 16. LABOR AND EMPLOYMENT

DEPARTMENT OF LABOR AND INDUSTRY

Final Regulation

REGISTRAR'S NOTICE: The agency 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 Labor and Industry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16VAC15-21. Maximum Garnishment Amounts (amending 16VAC15-21-30).

Statutory Authority: §§40.1-28.10 and 34-29 of the Code of Virginia; 29 USC §201.

Effective Date: August 23, 2007.

Agency Contact: Ellen Marie Hess, Director, Division of Labor and Employment Law, Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219, telephone (804) 786-3224, FAX (804) 371-2324 or email emh@doli.virginia.gov.

Summary:

The amendment raises the amount of weekly earnings that are protected from garnishment from \$206 to \$234. The amendment is based on an increase to the federal minimum wage rate that takes effect on July 24, 2007, and raises the minimum wage to \$5.85 per hour.

16VAC15-21-30. Calculation of maximum garnishment amounts for an ordinary debt.

A. Weekly earnings.

1. If the amount of weekly disposable earnings equals 40 times the F.M.W.R. or less, nothing may be withheld for garnishment.
2. If the weekly disposable earnings exceed 40 times the F.M.W.R., the maximum amount that can be withheld for garnishment shall be either 25% of the weekly disposable earnings or the amount by which the weekly disposable earnings exceed 40 times the F.M.W.R., whichever is less, so long as the amount withheld does not reduce the weekly disposable earnings below 40 times the F.M.W.R. Based on a federal minimum wage rate of ~~\$5.15~~ \$5.85 per hour, 40 times the F.M.W.R. is ~~\$206.00~~ \$234. Thus, as of ~~August 15, 2005~~ July 24, 2007, if the weekly disposable earnings are less than or equal to ~~\$206.00~~ \$234, nothing may be withheld for garnishment. An increase in the

F.M.W.R. will increase the amount of weekly disposable earnings that would be shielded from garnishment.

B. Biweekly earnings. The maximum amount which may be withheld for garnishment from biweekly earnings shall be calculated in the same manner as described for weekly earnings in subsection A of this section, except that the corresponding weekly amounts in subdivisions A 1, A 2 and A 3 of this section shall be multiplied by 2.

C. Semimonthly earnings. The maximum amount which may be withheld for garnishment from semimonthly earnings shall be calculated in the same manner as described for weekly earnings in subsection A of this section, except that the corresponding weekly amounts in subdivisions A 1, A 2 and A 3 of this section shall be multiplied by 2.16665.

D. Monthly earnings. The maximum amount of monthly disposable earnings which may be withheld for garnishment shall be calculated in the same manner as weekly earnings in subsection A of this section, except that the corresponding weekly amounts in subdivisions A 1, A 2, and A 3 of this section shall be multiplied by 4.33330.

E. Earnings for a period of more than one month. The maximum amount which may be withheld in garnishment for work periods in excess of one month shall be calculated in the same manner as described for weekly earnings in subsection A of this section, except that the corresponding weekly amounts in subdivisions A 1, A 2 and A 3 of this section shall be multiplied by the number of weeks worked. The number of weeks worked shall be calculated by dividing the total number of days in the period worked by 7, calculated to 4 decimal places.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Dentistry 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 Dentistry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene (amending 18VAC60-20-71).

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

Regulations

Effective Date: August 22, 2007.

Agency Contact: Sandra Reen, Executive Director, Board of Dentistry, 6603 West Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9906, FAX (804) 662-9943 or email sandra.reen@dhp.virginia.gov.

Summary:

The amendments conform the requirements for licensure by credentials to changes in § 54.1-2709 of the Code of Virginia pursuant to Chapter 20 of the 2007 Acts of Assembly. The requirement for an applicant to have not failed an examination required for licensure within the past five years was deleted from the statute and the requirement is likewise eliminated from the regulation.

18VAC60-20-71. Licensure by credentials for dentists.

In accordance with §54.1-2709 of the Code of Virginia, an applicant for licensure by credentials shall:

1. Be of good moral character and not have committed any act that would constitute a violation of §54.1-2706 of the Code of Virginia;
2. Be a graduate of a dental program, school or college, or dental department of a university or college currently accredited by the Commission on Dental Accreditation of the American Dental Association;
3. Have passed Part I and Part II of the examination given by the Joint Commission on National Dental Examinations;
4. Have successfully completed a clinical examination that involved live patients;
- ~~5. Have not failed a clinical examination required by the board in the five years immediately preceding his application;~~
6. 5. Hold a current, unrestricted license to practice dentistry in another jurisdiction in the United States and be certified to be in good standing by each jurisdiction in which he currently holds or has held a license; and
7. 6. Have been in continuous clinical practice for five out of the six years immediately preceding application for licensure pursuant to this section. Active patient care in the dental corps of the United States Armed Forces, volunteer practice in a public health clinic, or practice in an intern or residency program may be accepted by the board to satisfy this requirement. One year of clinical practice shall consist of a minimum of 600 hours of practice in a calendar year as attested by the applicant.

VA.R. Doc. No. R07-283; Filed June 25, 2007, 9:16 a.m.

BOARD OF MEDICINE

Final Regulation

REGISTRAR'S NOTICE: The Board of Medicine 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 Medicine will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic (amending 18VAC85-20-290).**

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

Effective Date: August 22, 2007.

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

Summary:

The amendments change the terminology and requirements for posting malpractice information on the Practitioner Profile System by doctors of medicine, osteopathic medicine and podiatry and conform the regulation to the Code of Virginia pursuant to Chapter 861 of the 2007 Acts of Assembly.

18VAC85-20-290. Reporting of medical malpractice paid claims judgments and settlements.

A. In compliance with requirements of §54.1-2910.1 of the Code of Virginia, a doctor of medicine, osteopathic medicine, or podiatry licensed by the board shall report all medical malpractice paid claims judgments and settlements of \$10,000 or more in the most recent 10-year period within 30 days of the initial payment. A doctor shall report a medical malpractice judgment or settlement of less than \$10,000 if any other medical malpractice judgment or settlement has been paid by or for the licensee within the preceeding 12 months. Each report of a settlement or judgment shall indicate:

1. The year the claim judgment or settlement was paid.
2. The specialty in which the doctor was practicing at the time the incident occurred that resulted in the paid-claim judgment or settlement.
3. The total amount of the paid-claim judgment or settlement in United States dollars.
4. The city, state, and country in which the paid-claim judgment or settlement occurred.

B. The board shall not release individually identifiable numeric values of reported ~~paid-claims judgments or settlements~~ but shall use the information provided to determine the relative frequency of ~~paid-claims judgments or settlements~~ described in terms of the number of doctors in each specialty and the percentage with malpractice ~~paid-claims judgments or settlements~~ within the most recent 10-year period. The statistical methodology used will include any specialty with more than 10 ~~paid-claims judgments or settlements~~. For each specialty with more than 10 ~~paid-claims judgments or settlements~~, the top 16% of the ~~paid-claims judgments or settlements~~ will be displayed as above average payments, the next 68% of the ~~paid-claims judgments or settlements~~ will be displayed as average payments, and the last 16% of the ~~paid-claims judgments or settlements~~ will be displayed as below average payments.

C. For purposes of reporting required under this section, a ~~malpractice paid-claim medical malpractice judgment and medical malpractice settlement~~ shall mean a payment for the benefit of a doctor of medicine, osteopathic medicine, or podiatry in satisfaction in whole or in part of a settlement or a judgment in response to a written demand for monetary payment for damages based on the provision of health care or professional services rendered, or that should have been rendered have the meanings ascribed in §54.1-2900 of the Code of Virginia. A medical malpractice paid-claim judgment or settlement shall include:

1. A lump sum payment or the first payment of multiple payments;
2. A payment made from personal funds;
3. A payment on behalf of a doctor of medicine, osteopathic medicine, or podiatry by a corporation or entity comprised solely of that doctor of medicine, osteopathic medicine, or podiatry; or
4. A payment on behalf of a doctor of medicine, osteopathic medicine or podiatry named in the claim where that doctor is dismissed as a condition of, or in consideration of the settlement, judgment or release. If a doctor is dismissed independently of the settlement, judgment or release, then the payment is not reportable.

VA.R. Doc. No. R07-284; Filed June 25, 2007, 9:16 a.m.

BOARD OF VETERINARY MEDICINE

Fast-Track Regulation

Title of Regulation: **18VAC150-10. Public Participation Guidelines (amending 18VAC150-10-10, 18VAC150-10-20, 18VAC150-10-30, 18VAC150-10-40, 18VAC150-10-50, 18VAC150-10-60, 18VAC150-10-70, 18VAC150-10-80, 18VAC150-10-100, 18VAC150-10-110, 18VAC150-10-120).**

Statutory Authority: §§2.2-4007.02 and 54.1-2400 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on September 21, 2007.

Effective Date: October 7, 2007.

Agency Contact: Elizabeth Young, Executive Director, Department of Health Professions, 6603 W. Broad Street, 5th Floor, Richmond, VA 23230-1712, telephone (804) 662-9915, FAX (804) 662-7098, or email elizabeth.young@dhp.virginia.gov.

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

The specific statutory mandate for guidelines for public participation in the regulatory process is found in § 2.2-4007.02.

Purpose: The board has updated and clarified its guidelines for public participation in the development and promulgation of initial, amended or repealed regulations, such as inclusion of electronic notification and the Virginia Regulatory Townhall as an option for comment. Changes are recommended by a committee of board and/or department staff, which reviewed each regulation for effectiveness, consistency and clarity. The intent is for amendments to be clarifying rather than substantive. Full participation by the public and regulated entities in the regulatory process is necessary to ensure that regulations fulfill the purpose of protecting the health and safety of the public in a manner that is not overly burdensome to those being regulated.

Rationale for Using Fast-Track Process: The fast-track process is being used to promulgate the amendments because there is general agreement with the changes proposed. The action is not controversial, as it is reflected by the fact that there was no public comment on a notice of intended regulatory action filed by other boards within the Department of Health Professions. Both the Department of Planning and Budget and the Governor's office have recommended that these amendments be promulgated by a fast-track action.

Substance: An amendment is adopted to specify that the development and promulgation includes the initial formation and development, amendment or repeal of regulations. Cites for the provisions of the Administrative Process Act (APA) of the Code of Virginia throughout the regulations will be updated to reflect the recodification that took place since this chapter was last amended.

The definition for "notification lists" will be amended to refer specifically to the Virginia Regulatory Town Hall and to ensure that notification includes electronic means as well as mailing paper copies.

Regulations

A new definition for “regulation,” consistent with the definition of the APA will be added for clarity since the public often confuses law and regulation.

A requirement that persons on the notification list be sent a notification of the adoption of a final regulation and instructions as to how to obtain a copy of the regulation will be deleted and replaced with a requirement that the board must post notification of the adoption of a final regulation and copies of the regulation on the board’s website prior to the 30-day adoption period.

The board will also include a rule found in the PPG regulations of many other boards or agencies that provides that the failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation otherwise adopted in accordance with this chapter.

An amendment will provide that the board has the sole authority to dispose of the petition to ensure that petition requests would be brought to the board and not reviewed and dismissed by staff or some other entity.

An introductory sentence to explain the purpose of a notice of intended regulatory action and the APA requirement for a public hearing if the Governor so directs are added.

An introductory sentence to explain the purpose of a notice of comment is added.

Amendments are adopted to clarify and update the language of the regulation.

Amendments will be proposed to clarify that the periodic review of regulations should be consistent with the Executive Order of the Governor in accordance with the APA. Other terms will be amended for consistency in the regulation.

The board proposes to extend the duration of an ad hoc committee from 12 to 18 months because the development of regulatory language with such a committee often includes discussion of issues prior to adoption and publication of a NOIRA and consideration of comment on the NOIRA and the proposed regulation. Rather than setting in regulation a time of six months for any extension of the committee, the board would be authorized to continue the committee for an additional period of time to complete the specific advisory task for which it appointed.

Issues: There are no disadvantages to the public of these amendments. Clarification of regulation, additional opportunity for comment, and an extension of service for an ad hoc committee appointed to advise the board on the development of a regulation are all intended to give interested parties more access to the process.

There are no advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Regulation. The Board of Veterinary Medicine (Board) proposes to amend its Public Participation Guidelines. The Board proposes to require that notification of all final regulatory actions, as well as the text of the regulations being changed, be posted to the Board’s website before the 30 day adoption period begins. The Board also proposes to extend the time limit under which ad hoc committees function and eliminate language that requires the Board review its regulations at least every two years.

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

Estimated Economic Impact. Current regulation requires the Board to notify individuals on its notification lists, either by regular mail or email, whenever a final-stage regulation is about to enter its 30 day adoption period. This current regulatory notification requirement is more stringent than what is required by either the Administrative Process Act or Executive Order 36 (both of these rule making documents are silent on this matter). The Board proposes to delete this portion of its public participation guidelines and, instead, will post notices of adoption of final regulation, as well as the text of the regulation being changed, on the Board’s website. The Board believes that the changed notification requirements in the proposed regulation will allow staff time to be used more efficiently while still protecting the public’s ability to be involved in the final stage of the rule-making process. Individuals who are following Board regulations through the process may be slightly inconvenienced by having to go to the Board’s website to get information rather than having that information mailed to them. These individuals, and the public generally, will likely benefit slightly from having staff time spent on more important tasks.

Current regulation requires that the Board review all of its regulations every two years “unless otherwise directed by executive order.” The proposed regulation will require the Board to conduct “periodic review of its regulations consistent with an executive order of the Governor and with §2.2-4007.1 of the Code of Virginia.” Currently it takes, on average, approximately 18 months for all regulatory requirements for a new or amended regulation to be met. Given this, the public will likely benefit (slightly) from the removal of language that likely sets an unrealistic timeline for the periodic review of regulations.

Current regulation limits ad hoc committees to 12 months existence before they must be dissolved. The proposed regulation will extend this term limit to 18 months and allow the Board to authorize continuance of ad hoc committees past their regulatory time limit if their set task has not been completed. This proposal will likely have no economic impact on the citizens of the Commonwealth.

Businesses and Entities Affected. The proposed regulation will affect all individuals who involve themselves in the administrative rule-making actions of the Board.

Localities Particularly Affected. The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment. The proposed regulation is unlikely to have any affect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. The proposed regulation will likely have no affect on the use or value of private property within the Commonwealth.

Small Businesses: Costs and Other Effects. The proposed regulation will likely have no adverse impact on any small businesses in the Commonwealth.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed regulation will likely have no adverse impact on any small businesses in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 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 adverse effect on small businesses, Section 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 Veterinary Medicine concurs with the analysis of the Department of Planning and Budget for amendments to 18VAC150-10 related to its periodic review recommendations.

Summary:

The amendments update and clarify guidelines for public participation in the development and promulgation of initial, amended or repealed regulations, such as inclusion of electronic notification and the Virginia Regulatory Townhall as an option for comment, clarification of certain terms used in the regulation and an extension of the time limitation on ad hoc committees.

18VAC150-10-10. Purpose.

The purpose of this chapter is to provide guidelines for the involvement of the public in the ~~development and promulgation~~ initial formation and development, amendment or repeal of regulations of the Board of Veterinary Medicine. The guidelines do not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia). These rules seek to expand participation by providing for electronic exchange with the public and thereby increasing participation, reducing costs, and improving the speed of communication.

18VAC150-10-20. Definitions.

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

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

"Board" means the Board of Veterinary Medicine.

"Notification lists" means lists used by the board to notify persons pursuant to these rules. Such lists may include electronic ~~mailing~~ lists maintained through a ~~state website~~ the Virginia Regulatory Town Hall or ~~regular mailing~~ lists maintained by the board.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or any other legal entity.

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

Part II

Notification Lists

18VAC150-10-30. Composition of notification lists.

A. The board shall maintain lists of persons who have requested to be notified of the initial formation and promulgation, development, amendment or repeal of regulations.

B. Any person may request to be placed on a notification list by indicating so electronically or in writing to the board. The board may add to a list any person it believes will serve the purpose of enhancing participation in the regulatory process.

Regulations

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

D. The board shall periodically request those persons on the notification lists to indicate their desire to either continue to receive documents by regular mail, be notified electronically or be deleted from the lists. Persons who elect to be included on an electronic mailing list may also request that all notices and mailings be sent in hard copy. When either regular or electronic mail is returned as undeliverable or there has been no response to the request from the board, such persons shall be deleted from the list.

18VAC150-10-40. Documents to be sent to persons on the notification lists.

A. Persons on the notification lists, as described in 18VAC150-10-30, shall be mailed or have electronically transmitted the following documents related to the promulgation of regulations:

1. A notice of intended regulatory action.
2. A notice of the comment period on a proposed regulation and instructions as to how to obtain a copy of the regulation and any supporting documents, either electronically or from the board office.
- ~~3. A notification of the adoption of a final regulation and instructions as to how to obtain a copy of the regulation and any supporting documents, either electronically or from the board office.~~
4. 3. A notice soliciting comment on a final regulation when the regulatory process has been extended.

B. Notification of the adoption of a final regulation and copies of the regulation shall be posted on the board's website prior to the 30-day adoption period.

C. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation otherwise adopted in accordance with this chapter.

Part III

Public Participation Procedures

18VAC150-10-50. Petition for rulemaking.

A. As provided in §2.2-4007 of the Code of Virginia, any person may petition the board to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.

3. A description of the regulatory problem or need to be addressed.

4. A recommended addition, deletion, or amendment to the regulation.

C. The board shall receive, consider and respond to a petition within 180 days, and shall have the sole authority to dispose of the petition.

D. Nothing herein shall prohibit the board from receiving information from the public and proceeding on its own motion for rulemaking.

18VAC150-10-60. Notice of Intended Regulatory Action.

A. The board shall issue a notice of intended regulatory action (NOIRA) whenever it considers the adoption, amendment or repeal of a regulation. ~~The notice of intended regulatory action (NOIRA)~~ NOIRA shall state the purpose of the action and a brief statement of the need or problem the proposed action will address.

B. The NOIRA shall indicate whether the board intends to hold a public hearing on the proposed regulation after it is published. If the board does not intend to hold a public hearing, it shall state the reason in the NOIRA.

C. If prior to the close of the 30-day comment period on the NOIRA, the board receives a request for a public hearing on the proposed regulation from at least 25 persons or if the Governor directs the board to hold a public hearing, such a hearing shall be scheduled.

18VAC150-10-70. Notice of Comment Period.

A. Prior to the 60-day comment period, the board shall issue a notice of comment period (NOCP) whenever it proposes to initiate, amend or repeal a regulation or amend an existing regulation under a fast-track process. ~~The notice of comment period (NOCP)~~ NOCP shall indicate that copies of the proposed regulation are available electronically or from the board and may be requested in writing from the contact person specified in the NOCP.

B. The NOCP shall indicate that copies of the statement of substance, issues, basis, purpose, and estimated impact of the proposed regulation may also be requested in writing.

C. The NOCP shall make provision for comments pertaining to the proposed regulation by regular mail, ~~Internet~~, facsimile or electronic means. With the exception of comment received at a scheduled public hearing, oral comment ~~may~~ shall not be accepted.

18VAC150-10-80. Notice of meeting.

A. At any meeting of the board or advisory committee at which the formation, amendment, repeal, or adoption of a regulation is anticipated, the subject shall be described in a notice of meeting, which has been posted electronically on the ~~Internet~~ Virginia Regulatory Town Hall and transmitted to

the Registrar of Regulations for inclusion in The Virginia Register.

B. If the board anticipates action on a regulation for which an exemption to the Administrative Process Act is claimed under §2.2-4002 or 2.2-4011 of the Code of Virginia, the notice of meeting shall indicate that a copy of the proposed regulation is ~~available on a state website or upon request to~~ may be requested from the board at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

18VAC150-10-100. Periodic review of regulations.

A. ~~Unless otherwise directed by executive order, the~~ The board shall conduct ~~an informational proceeding at least every two years~~ a periodic review of its regulations consistent with an executive order issued by the Governor and with §2.2-4007.1 of the Code of Virginia to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. Such ~~proceeding review~~ may be conducted separately or in conjunction with other ~~informational proceedings meetings~~ or hearings.

C. Notice of the proceeding shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register and shall be sent to the ~~mailing list~~ notification lists identified in 18VAC150-10-30.

Part IV

Advisory Ad Hoc Committees

18VAC150-10-110. Appointment of committees.

A. The board may appoint an ad hoc ~~advisory~~ committee whose responsibility shall be to assist in the review and development of regulations for the board.

B. The board may appoint an ad hoc ~~advisory~~ committee to provide professional specialization or technical assistance when the board determines that such expertise is necessary to address a specific regulatory issue or need or when groups of individuals register an interest in working with the agency.

18VAC150-10-120. Limitation of service.

A. An ~~advisory ad hoc~~ committee that has been appointed by the board may be dissolved by the board when:

1. There is no response to the Notice of Intended Regulatory Action; or
2. The board determines that the promulgation of the regulation is either exempt or excluded from the requirements of the Administrative Process Act.

B. An ~~advisory ad hoc~~ committee shall remain in existence no longer than ~~12~~ 18 months from its initial appointment. ~~1. If~~ unless the board determines that the specific regulatory need continues to exist beyond that time, ~~it shall set a specific term~~

~~for the committee of not more than six additional months. The board may authorize the ad hoc committee to continue for an additional specified period of time to complete the task for which it was appointed.~~

~~2. At the end of that extended term, the board shall evaluate the continued need and may continue the committee for additional six month terms.~~

VA.R. Doc. No. R07-292; Filed July 2, 2007, 11:46 a.m.



TITLE 21. SECURITIES AND RETAIL FRANCHISING

STATE CORPORATION COMMISSION, DIVISION OF SECURITIES AND RETAIL FRANCHISING

Final Regulation

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: 21VAC5-10. General Administration - Securities Act (amending 21VAC5-10-40)

21VAC5-20. Broker-Dealers, Broker-Dealer Agents and Agents of the Issuer: Registration, Expiration, Renew (amending 21VAC5-20-280, 21VAC5-20-330; adding 21VAC5-20-65, 21VAC5-20-95).

21VAC5-80. Investment Advisors (amending 21VAC5-80-160, 21VAC5-80-200; adding 21VAC5-80-65).

Statutory Authority: §§12.1-13 and 13.1-523 of the Code of Virginia.

Effective Date: July 1, 2007.

Agency Contact: Thomas M. Gouldin, Deputy Director, Division of Securities and Retail Franchising, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9755, FAX (804) 371-9911, or email don.gouldin@scc.virginia.gov.

Summary:

The amendments address a change made to the Virginia Securities Act during the 2007 legislative session that allows broker-dealers to register more than one agent under the Act in proposed new regulation 21VAC5-20-95. Other revisions were made to clarify certain portions of the regulations in Chapters 10, 20 and 80 of Title 21 of the Virginia Administrative Code, including maintenance of records, a new definition of breakpoint, and revisions to advertising and testimonials by investment advisors. Sections revised were 21VAC5-10-40, 21VAC5-20-280,

Regulations

21VAC5-20-330, 21VAC5-80-160, and 21VAC5-80-200. New sections of the regulations are 21VAC5-20-65, 21VAC5-20-95 and 21VAC5-80-65.

After receipt of public comments and a State Corporation Commission hearing, correction of some grammatical and typographical errors was made in addition to the following changes:

1. Subdivision 1 of 21VAC5-20-65 was revised at the request of industry to require that broker-dealers provide records their records to the commission "promptly" as opposed to "immediately;"
2. Subdivision 2 of 21VAC5-20-65 was expanded by the commission to allow broker-dealers to provide books and records to the commission within five days instead of 48 hours of request;
3. Subdivision 2 of 21VAC5-80-65 was expanded by the commission to allow investment advisors to provide books and records to the commission within five days instead of 48 hours of request; and
4. 21VAC5-80-200 A 13a was amended to add the word "advisor" that was inadvertently omitted.

AT RICHMOND, JUNE 18, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC-2007-00017

Ex Parte: In the matter of
Adopting a Revision to the Rules
Governing The Securities Act

ORDER ADOPTING AMENDED RULES

By order entered April 6, 2007, all interested persons were ordered to take notice that the State Corporation Commission ("Commission") would consider the adoption of a revision to Chapters 10, 20 and 80 of Title 21 of the Virginia Administrative Code entitled "Rules and Forms Governing Virginia Securities Act," which added new rules 21 VAC 5-20-65, 21 VAC 5-20-95, and 21 VAC 5-80-65 and revised rules 21 VAC 5-10-40, 21 VAC 5-20-280, 21 VAC 5-20-330, 21 VAC 5-80-160, and 21 VAC 5-80-200 (the "Rules"). On April 24, 2007, the Division of Securities and Retail Franchising ("Division") mailed the Order to Take Notice of the proposed Rules to all securities registrants and applicants as of April 16, 2007, and to all interested parties pursuant to the Virginia Securities Act, §§ 13.1-501 *et seq.* of the Code of Virginia. The Order to Take Notice described the proposed amendments and afforded interested parties an opportunity to file written comments or requests for hearing by May 16, 2007. In addition, the Order to Take Notice scheduled a tentative hearing date on May 30, 2007.

Three comment letters were filed but no requests to be heard at the hearing were made. By order entered May 21, 2007, the hearing on May 30, 2007, was canceled and the Division was ordered to file on or before June 6, 2007, a written response to the comment letters.

On June 6, 2007, the Division filed its Response to Comments. In its Response, the Division indicated that it agreed with the request that the word "immediately" be changed to the word "promptly" in proposed Rule 21 VAC 5-20-65 (1) but recommended that the remaining suggested changes within the comments be rejected.

The Commission, upon consideration of the proposed Rules, the filed comments, and the recommendations of the Division in response to the comments, finds that the proposed Rules should be adopted with two modifications. Rule 21 VAC 5-20-65 (1), addressing document availability, should be modified to change the word "immediately" to the word "promptly." In addition, the time frame for document production in Rules 21 VAC 5-20-65 (2) and 21 VAC 5-80-65 (2) should be increased from 48 hours to five days.

Accordingly, IT IS ORDERED THAT:

(1) The proposed Rules, as modified, are attached hereto, made a part hereof, and are hereby ADOPTED effective July 1, 2007.

(2) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Division to each of the following by regular mail: Nancy Donohoe Lancia, Securities Industry and Financial Markets Association, 120 Broadway, 35th Floor, New York, New York 10271-0080; Tamara K. Salmon, Investment Company Institute, 1401 H Street, N.W., Washington, D.C. 20005-2148; Victoria Bach-Fink, Wall Street Financial Group, 255 Woodcliff Drive, Fairport, New York 14450; the Commission's Division of Information Resources and Office of General Counsel; and such other persons as the Division deems appropriate.

21VAC5-10-40. Definitions.

As used in ~~the Securities Act~~ this chapter, the following regulations and forms pertaining to securities, instructions and orders of the commission, the following meanings shall apply:

"Act" means the Securities Act contained in Chapter 5 (§13.1-501 *et seq.*) of Title 13.1 of the Code of Virginia.

"Applicant" means a person on whose behalf an application for registration or a registration statement is filed.

"Application" means all information required by the forms prescribed by the commission as well as any additional

information required by the commission and any required fees.

"Bank Holding Company Act of 1956" (12 USC §1841 et seq.) means the federal statute of that name as now or hereafter amended.

"Boiler room tactics" mean operations or high pressure tactics utilized in connection with the promotion of speculative offerings by means of an intensive telephone campaign or unsolicited calls to persons not known by or having an account with the salesman or broker-dealer represented by him, whereby the prospective purchaser is encouraged to make a hasty decision to invest, irrespective of his investment needs and objectives.

"Breakpoint" means the dollar level of investment necessary to qualify a purchaser for a discounted sales charge on a quantity purchase of open-end management company shares.

"Commission" means State Corporation Commission.

"Federal covered advisor" means any person who is registered or required to be registered under §203 of the Investment Advisers Act of 1940 as an "investment adviser."

"Investment Advisers Act of 1940" (15 USC §80b-1 et seq.) means the federal statute of that name as now or hereafter amended.

Notwithstanding the definition in §13.1-501 of the Act, "investment advisor representative" as applied to a federal covered advisor only includes an individual who has a "place of business" (as that term is defined in rules or regulations promulgated by the SEC) in this Commonwealth and who either:

1. Is an "investment advisor representative" as that term is defined in rules or regulations promulgated by the SEC; or
2. a. Is not a "supervised person" as that term is defined in the Investment Advisers Act of 1940; and
 - b. Solicits, offers or negotiates for the sale of or sells investment advisory services on behalf of a federal covered advisor.

"Investment Company Act of 1940" (15 USC §80a-1 et seq.) means the federal statute of that name as now or hereafter amended.

"NASAA" means the North American Securities Administrators Association, Inc.

"NASD" means the National Association of Securities Dealers, Inc.

"Notice" or "notice filing" means, with respect to a federal covered advisor or federal covered security, all information required by the regulations and forms prescribed by the commission and any required fee.

"Registrant" means an applicant for whom a registration or registration statement has been granted or declared effective by the commission.

"SEC" means the United States Securities and Exchange Commission.

"Securities Act of 1933" (15 USC §77a et seq.) means the federal statute of that name as now or hereafter amended.

"Securities Exchange Act of 1934" (15 USC §78a et seq.) means the federal statute of that name as now or hereafter amended.

NOTICE: The forms used in administering 21 VAC 5-10, General Administration Securities Act are not being published; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Broker-Dealer and Agent Forms

Form BD—Uniform Application for Broker-Dealer Registration (2/98).

Form S.A.11—Broker-Dealer's Surety Bond (rev. 7/99).

Form S.A.2—Application for Renewal of a Broker-Dealer's Registration (rev. 7/99).

Form S.D.4—Application for Renewal of Registration as an Agent of an Issuer (1997).

Form S.D.4.A—Non-NASD Broker-Dealer or Issuer Agents to be Renewed Exhibit (1974).

Form S.D.4.B—Non-NASD Broker-Dealer or Issuer Agents to be Canceled with no disciplinary history (1974).

Form S.D.4.C—Non-NASD Broker-Dealer or Issuer Agents to be Canceled with disciplinary history (1974).

Form BDW—Uniform Notice of Termination or Withdrawal of Registration as a Broker-Dealer (rev. 4/89).

Rev. Form U—Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U—Uniform Termination Notice for Securities Industry Registration (11/97).

Investment Advisor and Investment Advisor Representative Forms

Form ADV—Uniform Application for Registration of Investment Advisors (rev. 1/01).

Form ADV-W - Notice of Withdrawal from Registration as an Investment Advisor (rev. 1/01).

Regulations

Surety Bond Form (rev. 7/99).

Rev. Form U—Uniform Application for Securities Industry Registration or Transfer (11/97).

Rev. Form U—Uniform Termination Notice for Securities Industry Registration (11/97).

Form S.A.3—Affidavit for Waiver of Examination (rev. 7/99).

Form S.A.15—Investment Advisor Representative Multiple Employment Agreement (~~7/98~~ eff. 7/07).

Form S.A.16—Agent Multiple Employment Agreement (eff. 7/07).

Securities Registration and Notice Filing Forms

Form U—Uniform Application to Register Securities (7/81).

Form U—Uniform Consent to Service of Process (7/81).

Form U—a--Uniform Form of Corporate Resolution (rev. 7/99).

Form S.A.4—Registration by Notification—Original Issue (rev. 11/96).

Form S.A.5—Registration by Notification—Non-Issuer Distribution (rev. 11/96).

Form S.A.6—Registration by Notification—Pursuant to 21VAC5-30-50 Non-Issuer Distribution "Secondary Trading" (1989).

Form S.A.8—Registration by Qualification (7/91).

Form S.A.10—Request for Refund Affidavit (Unit Investment Trust) (rev. 7/99).

Form S.A.12—Escrow Agreement (1971).

Form S.A.13—Impounding Agreement (rev. 7/99).

Form VA—Parts 1 and 2—Notice of Limited Offering of Securities (rev. 11/96).

Form NF—Uniform Investment Company Notice Filing (4/97).

21VAC5-20-65. Broker-dealer records retention requirements.

The following requirements apply to every registered broker-dealer as a condition of registration as a broker-dealer under the Act:

1. All of the broker-dealer's records, [~~immediately~~ promptly] upon the request of the commission, will be made available for inspection by the commission and reproduction for the commission in an office where the records are maintained;

2. All of the broker-dealer's records or legible copies of the same, or printouts of the same, if automated, pertaining to a securities transaction any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection by the commission in the office of the commission's Division of Securities and Retail Franchising within [~~48 hours~~ five days] after request of the commission for same;

3. The term "records" as used in this section means and includes all books, papers, documents, tapes, films, photographs, electronic readable format or other materials, regardless of physical form or characteristics that (i) are maintained for recordation or storage of information prepared, used or to be used in connection with a securities transaction or (ii) were used or are to be used in connection with securities transactions;

4. Failure to comply with this section may be considered grounds for the institution of a proceeding to revoke a broker-dealer's registration or for such other penalty prescribed by the Act; and

5. Any broker-dealer subject to a commission investigation may be required to pay the actual cost of the investigation.

21VAC5-20-95. Employment of an agent by more than one broker-dealer.

A. In accordance with §13.1-504 B of the Act, an agent may be employed by more than one broker-dealer if all of the following conditions are satisfied:

1. Each employing broker-dealer is under common ownership and control as defined in subsection B of this section.

2. Each employing broker-dealer is registered in accordance with 21VAC5-20-10.

3. Each employing broker-dealer consents in writing to the employment of the agent by each of the other employing broker-dealers.

4. Each employing broker-dealer agrees to be responsible for the employment activity of the agent.

5. The agent is registered in accordance with 21VAC5-20-90 by and on behalf of each employing broker-dealer.

6. Each employing broker-dealer executes an Agent Multiple Employment Agreement (Form S.A.16), and the executed agreement is filed with the commission at its Division of Securities and Retail Franchising prior to the agent transacting business in Virginia on behalf of such broker-dealer.

7. A new Agent Multiple Employment Agreement is executed and filed with the commission at its Division of Securities and Retail Franchising within 15 days after any information in a current agreement on file with the

commission becomes materially deficient, incomplete or inaccurate.

B. The term "common ownership and control" as used in this section means possession of at least a 50% ownership interest in each employing broker-dealer by the same individual or individuals.

21VAC5-20-280. Prohibited business conduct.

A. No broker-dealer shall:

1. Engage in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers ~~and/or~~ or in the payment upon request of free credit balances reflecting completed transactions of any of its customers, or take any action that directly or indirectly interferes with a customer's ability to transfer his account; provided that the account is not subject to any lien for moneys owed by the customer or other bona fide claim, including, but not limited to, seeking a judicial order or decree that would bar or restrict the submission, delivery or acceptance of a written request from a customer to transfer his account;
2. Induce trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;
3. Recommend to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation, risk tolerance and needs, and any other relevant information known by the broker-dealer;
4. Execute a transaction on behalf of a customer without authority to do so or, when securities are held in a customer's account, fail to execute a sell transaction involving those securities as instructed by a customer, without reasonable cause;
5. Exercise any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time ~~and/or~~ or price for the execution of orders;
6. Execute any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account, or fail, prior to or at the opening of a margin account, to disclose to a noninstitutional customer the operation of a margin account and the risks associated with trading on margin at least as comprehensively as required by NASD Rule 2341;
7. Fail to segregate customers' free securities or securities held in safekeeping;

8. Hypothecate a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by Rules of the SEC;

9. Enter into a transaction with or for a customer at a price not reasonably related to the current market price of a security or receiving an unreasonable commission or profit;

10. Fail to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, either a final prospectus or a preliminary prospectus and an additional document, which together include all information set forth in the final prospectus;

11. Introduce customer transactions on a "fully disclosed" basis to another broker-dealer that is not exempt under §13.1-514 B 6 of the Act;

12. a. Charge unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of moneys due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

b. Charge a fee based on the activity, value or contents (or lack thereof) of a customer account unless written disclosure pertaining to the fee, which shall include information about the amount of the fee, how imposition of the fee can be avoided and any consequence of late payment or nonpayment of the fee, was provided no later than the date the account was established or, with respect to an existing account, at least 60 days prior to the effective date of the fee;

13. Offer to buy from or sell to any person any security at a stated price unless ~~such the~~ such the broker-dealer is prepared to purchase or sell, ~~as the case may be,~~ at ~~such the~~ such the price and under such conditions as are stated at the time of ~~such the~~ such the offer to buy or sell;

14. Represent that a security is being offered to a customer "at a market" or a price relevant to the market price unless ~~such the~~ such the broker-dealer knows or has reasonable grounds to believe that a market for ~~such the~~ such the security exists other than that made, created or controlled by ~~such the~~ such the broker-dealer, or by any person for whom he is acting or with whom he is associated in ~~such the~~ such the distribution, or any person controlled by, controlling or under common control with ~~such the~~ such the broker-dealer;

15. Effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

Regulations

a. Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; ~~provided~~, however, nothing in this ~~subsection~~ subdivision shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customers;

c. Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in ~~such the~~ security or raising or depressing the price of ~~such the~~ security, for the purpose of inducing the purchase or sale of ~~such the~~ security by others;

16. Guarantee a customer against loss in any securities account of ~~such the~~ customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for ~~such the~~ customer;

17. Publish or circulate, or cause to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless ~~such the~~ broker-dealer believes that ~~such the~~ transaction was a bona fide purchase or sale of ~~such the~~ security; or which purports to quote the bid price or asked price for any security, unless ~~such the~~ broker-dealer believes that ~~such the~~ quotation represents a bona fide bid for, or offer of, ~~such the~~ security;

18. Use any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

19. Fail to make reasonably available upon request to any person expressing an interest in a solicited transaction in a security, not listed on a registered securities exchange or quoted on an automated quotation system operated by a national securities association approved by regulation of the commission, a balance sheet of the issuer as of a date within 18 months of the offer ~~and/or~~ or sale of the issuer's securities and a profit and loss statement for either the fiscal year preceding that date or the most recent year of

operations, the names of the issuer's proprietor, partners or officers, the nature of the enterprises of the issuer and any available information reasonably necessary for evaluating the desirability or lack of desirability of investing in the securities of an issuer. All transactions in securities described in this ~~subsection~~ subdivision shall comply with the provisions of §13.1-507 of the Act;

20. Fail to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of ~~such the~~ security, the existence of ~~such~~ control to ~~such the~~ customer, and if ~~such~~ disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

21. Fail to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member;

22. Fail or refuse to furnish a customer, upon reasonable request, information to which ~~such the~~ customer is entitled, or to respond to a formal written request or complaint; ~~or~~

23. Fail to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian, in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets; ~~or~~

24. Market broker-dealer services that are associated with financial institutions in a manner that is misleading or confusing to customers as to the nature of securities products or risks; or

25. In transactions subject to breakpoints, fail to:

a. Utilize advantageous breakpoints without reasonable basis for their exclusion;

b. Determine information that should be recorded on the books and records of a member or its clearing firm, which is necessary to determine the availability and appropriateness of breakpoint opportunities; or

c. Inquire whether the customer has positions or transactions away from the member that should be considered in connection with the pending transaction, and apprise the customer of the breakpoint opportunities.

B. No agent shall:

1. Engage in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for

money, securities or an executed stock power of a customer;

2. Effect any securities transaction not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transaction is authorized in writing by the broker-dealer prior to execution of the transaction;

3. Establish or maintain an account containing fictitious information in order to execute a transaction which would otherwise be unlawful or prohibited;

4. Share directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

5. Divide or otherwise split the agent's commissions, profits or other compensation from the purchase or sale of securities in this state with any person not also registered as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control; or

6. Engage in conduct specified in subdivisions A 2, 3, 4, 5, 6, 10, 15, 16, 17, 18, ~~or 23, 24 or 25~~ of this section.

~~C. Failure to comply with any of the applicable continuing education requirements set forth in any of the following, if such failure has resulted in an agent's denial, suspension or revocation of a license, registration or membership with a self-regulatory organization. It shall be deemed a demonstration of a lack of business knowledge by an agent insofar as such business knowledge is required for registration by §13.1-505 A 3 of the Act, if an agent fails to comply with any of the applicable continuing education requirements set forth in any of the following and such failure has resulted in an agent's denial, suspension, or revocation of a license, registration, or membership with a self-regulatory organization.~~

1. Schedule C to the National Association of Securities Dealers By-Laws, Part XII of the National Association of Securities Dealers, as such provisions existed on July 1, 1995;

2. Rule 345 A of the New York Stock Exchange, as such provisions existed on July 1, 1995;

3. Rule G-3(h) of the Municipal Securities Rulemaking Board, as such provisions existed on July 1, 1995;

4. Rule 341 A of the American Stock Exchange, as such provisions existed on July 1, 1995;

5. Rule 9.3A of the Chicago Board of Options Exchange, as such provisions existed on July 1, 1995;

6. Article VI, Rule 9 of the Chicago Stock Exchange, as such provisions existed on July 1, 1995;

7. Rule 9.27(C) of the Pacific Stock Exchange, as such provisions existed on July 1, 1995; or

8. Rule 640 of the Philadelphia Stock Exchange, as such provisions existed on July 1, 1995.

Each or all of the education requirements standards listed above may be changed by each respective entity and if so changed will become a requirement if ~~such the~~ change does not materially reduce the educational requirements expressed above or reduce the investor protection provided by ~~such the~~ requirements.

D. No person shall publish, give publicity to, or circulate any notice, circular, advertisement, newspaper article, letter, investment service or communication which, though not purporting to offer a security for sale, describes ~~such the~~ security, for a consideration received or to be received, directly or indirectly, from an issuer, underwriter, or dealer, without fully disclosing the receipt, whether past or prospective, of such consideration and the amount thereof.

E. The purpose of this subsection is to identify practices in the securities business which are generally associated with schemes to manipulate and to identify prohibited business conduct of broker-dealers ~~and/or or~~ sales agents.

1. Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

2. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

3. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, ~~non-public~~ nonpublic information which would affect the value of the security.

4. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstances of each investor.

5. Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things, (i) transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or (ii) parking or withholding securities.

6. Although nothing in this subsection precludes application of the general ~~anti-fraud~~ antifraud provisions against anyone for practices similar in nature to the

Regulations

practices discussed below, the following subdivisions a through f specifically apply only in connection with the solicitation of a purchase or sale of OTC (over the counter) unlisted non-NASDAQ equity securities:

- a. Failing to advise the customer, both at the time of solicitation and on the confirmation, of any and all compensation related to a specific securities transaction to be paid to the agent including commissions, sales charges, or concessions.
 - b. In connection with a principal transaction, failing to disclose, both at the time of solicitation and on the confirmation, a short inventory position in the firm's account of more than 3.0% of the issued and outstanding shares of that class of securities of the issuer; however, subdivision 6 of this subsection shall apply only if the firm is a market maker at the time of the solicitation.
 - c. Conducting sales contests in a particular security.
 - d. After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.
 - e. Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.
 - f. Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.
7. Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance including but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.
8. Failing to comply with any prospectus delivery requirements promulgated under federal law or the Act.
9. In connection with the solicitation of a sale or purchase of an OTC unlisted non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under §13 of the Securities Exchange Act when requested to do so by a customer.
10. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited.
11. For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account with respect to all OTC non-NASDAQ equity securities in the account, containing a value for each such security based on the closing market bid on a date certain; however, this subdivision shall apply only if the firm has been a market maker in ~~such~~ the security at any time

during the month in which the monthly or quarterly statement is issued.

12. Failing to comply with any applicable provision of the Rules of Fair Practice of the NASD or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

13. In connection with the solicitation of a purchase or sale of a designated security:

a. Failing to disclose to the customer the bid and ask price, at which the broker-dealer effects transactions with individual, retail customers, of the designated security as well as its spread in both percentage and dollar amounts at the time of solicitation and on the trade confirmation documents; or

b. Failing to include with the confirmation, the notice disclosure contained in subsection F of this section, except the following shall be exempt from this requirement:

(1) Transactions in which the price of the designated security is \$5.00 or more, exclusive of costs or charges; however, if the designated security is a unit composed of one or more securities, the unit price divided by the number of components of the unit other than warrants, options, rights, or similar securities must be \$5.00 or more, and any component of the unit that is a warrant, option, right, or similar securities, or a convertible security must have an exercise price or conversion price of \$5.00 or more.

(2) Transactions that are not recommended by the broker-dealer or agent.

(3) Transactions by a broker-dealer: (i) whose commissions, commission equivalents, and mark-ups from transactions in designated securities during each of the ~~immediately~~ preceding three months, and during 11 or more of the preceding 12 months, did not exceed 5.0% of its total commissions, commission-equivalents, and mark-ups from transactions in securities during those months; and (ii) who has not executed principal transactions in connection with the solicitation to purchase the designated security that is the subject of the transaction in the ~~immediately~~ preceding 12 months.

(4) Any transaction or transactions that, upon prior written request or upon its own motion, the commission conditionally or unconditionally exempts as not encompassed within the purposes of this section.

c. For purposes of this section, the term "designated security" means any equity security other than a security:

(1) Registered, or approved for registration upon notice of issuance, on a national securities exchange and makes

transaction reports available pursuant to 17 CFR 11Aa3-1 under the Securities Exchange Act of 1934;

(2) Authorized, or approved for authorization upon notice of issuance, for quotation in the NASDAQ system;

(3) Issued by an investment company registered under the Investment Company Act of 1940;

(4) That is a put option or call option issued by The Options Clearing Corporation; or

(5) Whose issuer has net tangible assets in excess of \$4,000,000 as demonstrated by financial statements dated within no less than 15 months ~~previously~~ that the broker or dealer has reviewed and has a reasonable basis to believe are true and complete in relation to the date of the transaction with the person, and

(a) In the event the issuer is other than a foreign private issuer, are the most recent financial statements for the issuer that have been audited and reported on by an independent public accountant in accordance with the provisions of 17 CFR 210.2.02 under the Securities Exchange Act of 1934; or

(b) In the event the issuer is a foreign private issuer, are the most recent financial statements for the issuer that have been filed with the SEC; furnished to the SEC pursuant to 17 CFR 241.12g3-2(b) under the Securities Exchange Act of 1934; or prepared in accordance with generally accepted accounting principles in the country of incorporation, audited in compliance with the requirements of that jurisdiction, and reported on by an accountant duly registered and in good standing in accordance with the regulations of that jurisdiction.

F. Customer notice requirements follow:

IMPORTANT CUSTOMER NOTICE-READ CAREFULLY

You have just entered into a solicited transaction involving a security which may not trade on an active national market. The following should help you understand this transaction and be better able to follow and protect your investment.

Q. What is meant by the BID and ASK price and the spread?

A. The BID is the price at which you could sell your securities at this time. The ASK is the price at which you bought. Both are noted on your confirmation. The difference between these prices is the "spread," which is also noted on the confirmation, in both a dollar amount and a percentage relative to the ASK price.

Q. How can I follow the price of my security?

A. For the most part, you are dependent on broker-dealers that trade in your security for all price information. You

may be able to find a quote in the newspaper, but you should keep in mind that the quote you see will be for dealer-to-dealer transactions (essentially wholesale prices and will not necessarily be the prices at which you could buy or sell).

Q. How does the spread relate to my investments?

A. The spread represents the profit made by your broker-dealer and is the amount by which your investment must increase (the BID must rise) for you to break even. Generally, a greater spread indicates a higher risk.

Q. How do I compute the spread?

A. If you bought 100 shares at an ASK price of \$1.00, you would pay \$100 (100 shares X \$1.00 = \$100). If the BID price at the time you purchased your stock was \$.50, you could sell the stock back to the broker-dealer for \$50 (100 shares X \$.50 = \$50). In this example, if you sold at the BID price, you would suffer a loss of 50%.

Q. Can I sell at any time?

A. Maybe. Some securities are not easy to sell because there are few buyers, or because there are no broker-dealers who buy or sell them on a regular basis.

Q. Why did I receive this notice?

A. The laws of some states require your broker-dealer or sales agent to disclose the BID and ASK price on your confirmation and include this notice in some instances. If the BID and ASK were not explained to you at the time you discussed this investment with your broker, you may have further rights and remedies under both state and federal law.

Q. Where do I go if I have a problem?

A. If you cannot work the problem out with your broker-dealer, you may contact the Virginia State Corporation Commission or the securities commissioner in the state in which you reside, the United States Securities and Exchange Commission, or the National Association of Securities Dealers, Inc.

G. Engaging in or having engaged in conduct specified in subsection A, B, C, D, or E of this section, or other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall be grounds under the Act for imposition of a penalty, denial of a pending application or refusal to renew or revocation of an effective registration.

21VAC5-20-330. Model rules for sales of securities at financial institutions.

A. This section applies exclusively to broker-dealer services conducted by broker-dealers and their agents on the premises of a financial institution where retail deposits are taken.

Regulations

This section does not alter or abrogate a broker-dealer's obligation to comply with other applicable laws, rules, or regulations that may govern the operations of broker-dealers and their agents, including but not limited to, supervisory obligations. This section does not apply to broker-dealer services provided to nonretail customers.

B. For purposes of this section, the following terms have the meanings indicated:

"Broker-dealer services" means the investment banking or securities business as defined in paragraph (p) of Article I of the By-Laws of the NASD.

~~1. "Financial institution" means federal and state-chartered banks, savings and loan associations, savings banks, credit unions, and the service corporations of such institutions located in Virginia.~~

~~2. "Networking arrangement" means a contractual or other arrangement between a broker-dealer and a financial institution pursuant to by which the broker-dealer conducts broker-dealer services on the premises of such the financial institution where retail deposits are taken.~~

~~3. "Broker-dealer services" means the investment banking or securities business as defined in paragraph (p) of Article I of the By-Laws of the NASD.~~

C. Standards for broker-dealer conduct. No broker-dealer shall conduct broker-dealer services on the premises of a financial institution where retail deposits are taken unless the broker-dealer and its agents [~~complies~~ comply] ~~initially and continuously~~ with the following requirements:

1. Setting. Wherever practical, broker-dealer services shall be conducted in a physical location distinct from the area in which the financial institution's retail deposits are taken. In those situations where there is insufficient space to allow separate areas, the broker-dealer has a heightened responsibility to distinguish its services from those of the financial institution. In all situations, the broker-dealer shall identify its services in a manner that clearly distinguishes those services from the financial institution's retail deposit-taking activities. The broker-dealer's name shall be clearly displayed in the area in which the broker-dealer conducts its services.

2. a. Networking arrangements and program management. ~~Networking arrangements shall be governed by a written agreement that sets forth the responsibilities of the parties and the compensation arrangements. Networking arrangements must provide that supervisory personnel of the broker-dealer and representatives of state securities authorities, unless prohibited by state law, will be permitted access to the financial institution's premises where the broker-dealer conducts broker-dealer services in order to inspect the books and records and other relevant information maintained by the broker-dealer with respect~~

~~to its broker-dealer services. Management of the broker-dealer shall be responsible for ensuring that the networking arrangement clearly outlines the duties and responsibilities of all parties, including those of financial institution personnel. There shall be a written agreement between the financial institution and its associated broker-dealer that shall, at a minimum, address the areas listed below.~~

(1) A description of the responsibilities of each party, including the features of the sales program and the roles of registered and unregistered personnel;

(2) A description of the responsibilities of broker-dealer personnel authorized to make investment sales or recommendations;

(3) A description of how referrals to associated broker-dealer personnel will be made;

(4) A description of compensation arrangements for unregistered personnel;

(5) A description of training to be provided to both registered and unregistered personnel;

(6) A description of broker-dealer office audits to be conducted by the broker-dealer, including frequency, reports associated with financial institutions and records to be reviewed; and

(7) Authority of the financial institution and regulators to have access to relevant records of the broker-dealer and the financial institution in order to [~~evaluation~~ evaluate] compliance with the agreement.

b. Program management. The program's management of the broker-dealer's networking arrangements shall address and include at a minimum, those items listed below.

(1) A description of relevant referral activities and compensation arrangements;

(2) A description of appropriate training requirements for various classes of personnel;

(3) The scope and frequency of compliance reviews and the manner and frequency of reporting to broker-dealer compliance supervisors and the financial institution compliance management group;

(4) The process of verifying that security purchases and sales are being conducted in accordance with the written networking agreement;

(5) The permissible use of financial institution and broker-dealer customer information, including how compliance with Virginia and federal law and with the broker-dealer's privacy policies will be achieved; and

(6) The existence of any potential conflicts of interest between the broker-dealer activities and the financial

institution and its affiliates and appropriate disclosure of the conflicts that result from the relationship.

3. Customer disclosure and written acknowledgment.

a. At or prior to the time that a customer's securities brokerage account is opened by a broker-dealer on the premises of a financial institution where retail deposits are taken, the broker-dealer or its agents shall:

(1) Disclose, orally and in writing, that the securities products purchased or sold in a transaction with the broker-dealer:

(a) Are not insured by the Federal Deposit Insurance Corporation ("FDIC") or the National Credit Union Administration ("NCUA");

(b) Are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and

(c) Are subject to investment risks, including possible loss of principal invested.

(2) Make reasonable efforts to obtain from each customer during the account opening process a written acknowledgment of the disclosures required by subdivision C 3 a (1).

(3) Provide written disclosures that are conspicuous, easy to comprehend and presented in a clear and concise manner.

(4) Disclose, orally and in writing, that the broker-dealer and the financial institution are separate entities, and when mutual funds or other securities are bought through the broker-dealer, the client is doing business with the broker-dealer and not with the financial institution. [The Disclose, orally and in writing that the] broker-dealer and the financial institution will likely receive compensation as a result of the purchase of securities or advisory services by the client through the broker-dealer.

b. If broker-dealer services include any written or oral representations concerning insurance coverage, other than FDIC insurance coverage, then clear and accurate written or oral explanations of the coverage must also be provided to the customers when such representations are first made.

4. Communications with the public.

a. All of the broker-dealer's confirmations and account statements must indicate clearly that the broker-dealer services are provided by the broker-dealer.

b. Advertisements and sales literature that announce the location of a financial institution where broker-dealer services are provided by the broker-dealer or its agents, or that are distributed by the broker-dealer or its agents on the premises of a financial institution, must disclose

that securities products: are not insured by the FDIC; are not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and are subject to investment risks, including possible loss of the principal invested. The shorter logo format described in subdivision C 4 d may be used to provide these disclosures.

c. Recommendations by a broker-dealer or its agents concerning nondeposit investment products with a name similar to that of a financial institution must only occur pursuant to policies and procedures reasonably designed to minimize risk of customer confusion.

d. The following shorter logo format disclosures may be used by a broker-dealer or its agents in advertisements and sales literature, including material published, or designed for use, in radio or television broadcasts, automated teller machine ("ATM") screens, billboards, signs, posters and brochures, to comply with the requirements of subdivision C 4 b provided that such disclosures are displayed in a conspicuous manner:

(1) Not FDIC insured;

(2) No bank guarantee;

(3) May lose value.

e. As long as the omission of the disclosures required by subdivision C 4 b would not cause the advertisement or sales literature to be misleading in light of the context in which the material is presented, ~~such~~ the disclosures are not required with respect to messages contained in:

(1) Radio broadcasts of 30 seconds or less;

(2) Electronic signs, including billboard-type signs that are electronic, time and temperature signs and ticker tape signs, but excluding messages contained in such media as television, on-line computer services, or ATMs; and

(3) Signs, such as banners and posters, when used only as location indicators.

5. Notification of termination. The broker-dealer must promptly notify the financial institution if any agent of the [~~broker-dealer~~ broker-dealer] who is employed by the financial institution is terminated for cause by the broker-dealer.

6. Unregistered financial institution employees may only receive a one-time nominal fee of a fixed dollar amount for each customer referral, and only if the payment is not contingent on whether the referral results in an investment activity or a transaction.

21VAC5-80-65. Investment advisor records retention requirements.

Regulations

The following requirements apply to every registered investment advisor as a condition of registration as an investment advisor under the Act:

1. All of the investment advisor's records, immediately upon the request of the commission, will be made available for inspection by the commission and reproduction for the commission in an office where the records are maintained;

2. All of the investment advisor's records or legible copies of the same, or printouts of the same, pertaining to a securities transaction, any part of which occurred or is to occur within the Commonwealth of Virginia, will be made available for inspection of the commission in the office of the commission's Division of Securities and Retail Franchising within [~~48 hours~~ five days] after request of the commission for same;

3. The term "records" as used in this section means and includes all books, papers, documents, tapes, films, photographs, electronic readable format or other materials, regardless of physical form or characteristics that (i) are maintained for recordation or storage of information prepared, used or to be used in connection with a securities transaction or (ii) were used or are to be used in connection with securities transactions;

4. Failure to comply with this section may be considered grounds for the institution of a proceeding to revoke an investment advisor's registration or for such other penalty prescribed by the Act; and

5. Any investment advisor subject to a commission investigation may be required to pay the actual cost of the investigation.

21VAC5-80-160. Recordkeeping requirements for investment advisors.

A. Every investment advisor registered or required to be registered under the Act shall make and keep true, accurate and current the following books, ledgers and records, except an investment advisor having its principal place of business outside this Commonwealth and registered or licensed, and in compliance with the applicable books and records requirements, in the state where its principal place of business is located, shall only be required to make, keep current, maintain and preserve such of the following required books, ledgers and records as are not in addition to those required under the laws of the state in which it maintains its principal place of business:

1. A journal or journals, including cash receipts and disbursements records, and any other records of original entry forming the basis of entries in any ledger.

2. General and auxiliary ledgers (or other comparable records) reflecting asset, liability, reserve, capital, income and expense accounts.

3. A memorandum of each order given by the investment advisor for the purchase or sale of any security, of any instruction received by the investment advisor from the client concerning the purchase, sale, receipt or delivery of a particular security, and of any modification or cancellation of any such order or instruction. The memoranda shall show the terms and conditions of the order, instruction, modification or cancellation; shall identify the person connected with the investment advisor who recommended the transaction to the client and the person who placed [~~such the~~] order; and shall show the account for which entered, the date of entry, and the bank, broker or dealer by or through whom executed where appropriate. Orders entered pursuant to the exercise of discretionary power shall be so designated.

4. All check books, bank statements, canceled checks and cash reconciliations of the investment advisor.

5. All bills or statements (or copies of), paid or unpaid, relating to the business as an investment advisor.

6. All trial balances, financial statements prepared in accordance with generally accepted accounting principles which shall include a balance sheet, income statement and such other statements as may be required pursuant to 21VAC5-80-180, and internal audit working papers relating to the investment advisor's business as an investment advisor.

7. Originals of all written communications received and copies of all written communications sent by ~~such the~~ investment advisor relating to (i) any recommendation made or proposed to be made and any advice given or proposed to be given; (ii) any receipt, disbursement or delivery of funds or securities; and (iii) the placing or execution of any order to purchase or sell any security; however, (a) the investment advisor shall not be required to keep any unsolicited market letters and other similar communications of general public distribution not prepared by or for the investment advisor, and (b) if the investment advisor sends any notice, circular or other advertisement offering any report, analysis, publication or other investment advisory service to more than 10 persons, the investment advisor shall not be required to keep a record of the names and addresses of the persons to whom it was sent; except that if ~~such the~~ notice, circular or advertisement is distributed to persons named on any list, the investment advisor shall retain with a copy of ~~such the~~ notice, circular or advertisement a memorandum describing the list and the source thereof.

8. A list or other record of all accounts which list identifies the accounts in which the investment advisor is vested with any discretionary power with respect to the funds, securities or transactions of any client.

9. All powers of attorney and other evidences of the granting of any discretionary authority by any client to the investment advisor, or copies thereof.

10. All written agreements (or copies thereof) entered into by the investment advisor with any client, and all other written agreements otherwise related to the investment advisor's business as an investment advisor.

11. A file containing a copy of each notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media that the investment advisor circulates or distributes, directly or indirectly, to two or more persons (other than persons connected with the investment advisor), and if the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media recommends the purchase or sale of a specific security and does not state the reasons for the recommendation, a memorandum of the investment advisor indicating the reasons for the recommendation.

12. a. A record of every transaction in a security in which the investment advisor or any investment advisory representative of ~~such~~ the investment advisor has, or by reason of any transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisory representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. ~~Such~~ The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. ~~Such~~ The record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

b. For purposes of this subdivision 12, the following definitions will apply. The term "advisory representative" means any partner, officer or director of the investment advisor; any employee who participates in any way in the determination of which recommendations shall be made; any employee who, in connection with his duties, obtains any information concerning which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons who obtain information concerning securities recommendations being made by the investment advisor

prior to the effective dissemination of the recommendations:

- (1) Any person in a control relationship to the investment advisor;
- (2) Any affiliated person of a controlling person; and
- (3) Any affiliated person of an affiliated person.

"Control" means the power to exercise a controlling influence over the management or policies of a company, unless such power is solely the result of an official position with ~~such~~ the company. Any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of the ownership interest of a company shall be presumed to control ~~such~~ the company.

c. An investment advisor shall not be deemed to have violated the provisions of this subdivision 12 because of his failure to record securities transactions of any investment advisor representative if the investment advisor establishes that it instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

13. a. Notwithstanding the provisions of subdivision 12 of this subsection, where the investment advisor is primarily engaged in a business or businesses other than advising investment advisory clients, a record must be maintained of every transaction in a security in which the investment advisor or any investment advisory representative of such investment advisor has, or by reason of such transaction acquires, any direct or indirect beneficial ownership, except (i) transactions effected in any account over which neither the investment advisor nor any investment advisory representative of the investment advisor has any direct or indirect influence or control; and (ii) transactions in securities which are direct obligations of the United States. ~~Such~~ The record shall state the title and amount of the security involved; the date and nature of the transaction (i.e., purchase, sale or other acquisition or disposition); the price at which it was effected; and the name of the broker, dealer or bank with or through whom the transaction was effected. ~~Such~~ The record may also contain a statement declaring that the reporting or recording of any such transaction shall not be construed as an admission that the investment advisor or investment advisory representative has any direct or indirect beneficial ownership in the security. A transaction shall be recorded not later than 10 days after the end of the calendar quarter in which the transaction was effected.

b. An investment advisor is "primarily engaged in a business or businesses other than advising investment advisory clients" when, for each of its most recent three fiscal years or for the period of time since organization, whichever is less, the investment advisor derived, on an

Regulations

unconsolidated basis, more than 50% of (i) its total sales and revenues, and (ii) its income (or loss) before income taxes and extraordinary items, from such other business or businesses.

c. For purposes of this subdivision 13, the following definitions will apply. The term "advisory representative," when used in connection with a company primarily engaged in a business or businesses other than advising investment advisory clients, means any partner, officer, director or employee of the investment advisor who participates in any way in the determination of which recommendation shall be made, or whose functions or duties relate to the determination of which securities are being recommended prior to the effective dissemination of the recommendations; and any of the following persons, who obtain information concerning securities recommendations being made by the investment advisor prior to the effective dissemination of ~~such~~ the recommendations or of the information concerning the recommendations:

- (1) Any person in a control relationship to the investment advisor;
- (2) Any affiliated person of a controlling person; and
- (3) Any affiliated person of an affiliated person.

d. An investment advisor shall not be deemed to have violated the provisions of this subdivision 13 because of his failure to record securities transactions of any investment advisor representative if he establishes that he instituted adequate procedures and used reasonable diligence to obtain promptly reports of all transactions required to be recorded.

14. A copy of each written statement and each amendment or revision, given or sent to any client or prospective client of such investment advisor in accordance with the provisions of 21VAC5-80-190 and a record of the dates that each written statement, and each amendment or revision, was given, or offered to be given, to any client or prospective client who subsequently becomes a client.

15. For each client that was obtained by the advisor by means of a solicitor to whom a cash fee was paid by the advisor, the following:

- a. Evidence of a written agreement to which the advisor is a party related to the payment of such fee;
- b. A signed and dated acknowledgement of receipt from the client evidencing the client's receipt of the investment advisor's disclosure statement and a written disclosure statement of the solicitor; and,
- c. A copy of the solicitor's written disclosure statement. The written agreement, acknowledgement and solicitor disclosure statement will be considered to be in

compliance if such documents are in compliance with Rule 275.206(4)-3 of the Investment Advisers Act of 1940.

For purposes of this regulation, the term "solicitor" ~~shall mean~~ means any person or entity who, for compensation, acts as an agent of an investment advisor in referring potential clients.

16. All accounts, books, internal working papers, and any other records or documents that are necessary to form the basis for or demonstrate the calculation of the performance or rate of return of all managed accounts or securities recommendations in any notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including but not limited to electronic media that the investment advisor circulates or distributes directly or indirectly, to two or more persons (other than persons connected with the investment advisor); however, with respect to the performance of managed accounts, the retention of all account statements, if they reflect all debits, credits, and other transactions in a client's account for the period of the statement, and all worksheets necessary to demonstrate the calculation of the performance or rate of return of all managed accounts shall be deemed to satisfy the requirements of this subdivision.

17. A file containing a copy of all written communications received or sent regarding any litigation involving the investment advisor or any investment advisor representative or employee, and regarding any written customer or client complaint.

18. Written information about each investment advisory client that is the basis for making any recommendation or providing any investment advice to [~~such the~~] client.

19. Written procedures to supervise the activities of employees and investment advisor representatives that are reasonably designed to achieve compliance with applicable securities laws and regulations.

20. A file containing a copy of each document (other than any notices of general dissemination) that was filed with or received from any state or federal agency or self regulatory organization and that pertains to the registrant or its investment advisor representatives, which file should contain, but is not limited to, all applications, amendments, renewal filings, and correspondence.

21. Any records documenting dates, locations and findings of the investment advisor's annual review of these policies and procedures conducted pursuant to subdivision E 2 of 21VAC5-80-170.

B. If an investment advisor subject to subsection A of this section has custody or possession of securities or funds of any client, the records required to be made and kept under subsection A of this section shall also include:

1. A journal or other record showing all purchases, sales, receipts and deliveries of securities (including certificate numbers) for such accounts and all other debits and credits to ~~such~~ the accounts.

2. A separate ledger account for each [~~such~~] client showing all purchases, sales, receipts and deliveries of securities, the date and price of each ~~such~~ purchase and sale, and all debits and credits.

3. Copies of confirmations of all transactions effected by or for the account of any [~~such~~] client.

4. A record for each security in which any ~~such~~ client has a position, which record shall show the name of each ~~such~~ client having any interest in each security, the amount or interest of each ~~such~~ client, and the location of each ~~such~~ security.

C. Every investment advisor subject to subsection A of this section who renders any investment advisory or management service to any client shall, with respect to the portfolio being supervised or managed and to the extent that the information is reasonably available to or obtainable by the investment advisor, make and keep true, accurate and current:

1. Records showing separately for each ~~such~~ client the securities purchased and sold, and the date, amount and price of each ~~such~~ purchase and sale.

2. For each security in which any ~~such~~ client has a current position, information from which the investment advisor can promptly furnish the name of each ~~such~~ client and the current amount or interest of ~~such~~ the client.

D. Any books or records required by this section may be maintained by the investment advisor in such manner that the identity of any client to whom ~~such~~ the investment advisor renders investment advisory services is indicated by numerical or alphabetical code or some similar designation.

E. Every investment advisor subject to subsection A of this section shall preserve the following records in the manner prescribed:

1. All books and records required to be made under the provisions of subsection A ~~to~~ through subdivision C 1, inclusive, of this section, except for books and records required to be made under the provisions of subdivisions A 11 and A 16 of this section, shall be maintained ~~and preserved~~ in an easily accessible place for a period of not less than five years from the end of the fiscal year during which the last entry was made on record, the first two years of which shall be maintained in the principal office of the investment advisor.

2. Partnership articles and any amendments, articles of incorporation, charters, minute books, and stock certificate books of the investment advisor and of any predecessor, shall be maintained in the principal office of the

investment advisor and preserved until at least three years after termination of the enterprise.

3. Books and records required to be made under the provisions of subdivisions A 11 and A 16 of this section shall be maintained ~~and preserved~~ in an easily accessible place for a period of not less than five years, the first two years of which shall be maintained in the principal office of the investment advisor, from the end of the fiscal year during which the investment advisor last published or otherwise disseminated, directly or indirectly, the notice, circular, advertisement, newspaper article, investment letter, bulletin, or other communication including by electronic media.

4. Books and records required to be made under the provisions of subdivisions A 17 through A 20, inclusive, of this section shall be maintained and preserved in an easily accessible place for a period of not less than five years, from the end of the fiscal year during which the last entry was made on such record, the first two years in the principal office of the investment advisor, or for the time period during which the investment advisor was registered or required to be registered in the state, if less.

5. Notwithstanding other record preservation requirements of this subsection, the following records or copies shall be required to be maintained at the business location of the investment advisor from which the customer or client is being provided or has been provided with investment advisory services: (i) records required to be preserved under subdivisions A 3, A 7 through A 10, A 14 and A 15, A 17 through A 19, subsections B and C ~~inclusive of this subdivision~~, and (ii) the records or copies required under the provision of subdivisions A 11 and A 16 of this section which records or related records identify the name of the investment advisor representative providing investment advice from that business location, or which identify the business locations' physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in this subsection.

F. An investment advisor subject to subsection A of this section, before ceasing to conduct or discontinuing business as an investment advisor, shall arrange for and be responsible for the preservation of the books and records required to be maintained and preserved under this section for the remainder of the period specified in this section, and shall notify the commission in writing of the exact address where ~~such~~ the books and records will be maintained during such period.

G. 1. The records required to be maintained ~~and preserved~~ pursuant to this section may be immediately produced or reproduced by photograph on film or, as provided in subdivision 2 of this subsection, on magnetic disk, tape or other computer storage medium, and be maintained ~~and preserved~~ for the required time in that form. If records are

Regulations

preserved or reproduced by photographic film or computer storage medium, the investment advisor shall:

- a. Arrange the records and index the films or computer storage medium so as to permit the immediate location of any particular record;
- b. Be ready at all times to promptly provide any facsimile enlargement of film or computer printout or copy of the computer storage medium which the commission by its examiners or other representatives may request;
- c. Store separately from the original one other copy of the film or computer storage medium for the time required;
- d. With respect to records stored on computer storage medium, maintain procedures for maintenance ~~and preservation~~ of, and access to, records so as to reasonably safeguard records from loss, alteration, or destruction; and
- e. With respect to records stored on photographic film, at all times have available, for the commission's examination of its records, facilities for immediate, easily readable projection of the film and for producing easily readable facsimile enlargements.

2. Pursuant to subdivision 1 of this subsection, an advisor may maintain and preserve on computer tape or disk or other computer storage medium records which, in the ordinary course of the advisor's business, are created by the advisor on electronic media or are received by the advisor solely on electronic media or by electronic transmission.

H. Any book or record made, kept, maintained, and preserved in compliance with SEC Rules 17a-3 (17 CFR 240.17a-3) and 17a-4 (17 CFR 240.17a-4) under the Securities Exchange Act of 1934, which is substantially the same as the book, or other record required to be made, kept, maintained, and preserved under this section shall be deemed to be made, kept, maintained, and preserved in compliance with this section.

I. For purposes of this section, "investment supervisory services" means the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and "discretionary power" shall not include discretion as to the price at which or the time when a transaction is or is to be effected if, before the order is given by the investment advisor, the client has directed or approved the purchase or sale of a definite amount of the particular security.

J. Every investment advisor registered or required to be registered in this ~~state~~ Commonwealth and ~~that~~ has its principal place of business in a state other than ~~this state~~ the Commonwealth shall be exempt from the requirements of this section to the extent provided by the National Securities Markets Improvement Act of 1996 (Pub.L. No. 104-290),

provided the investment advisor is licensed in such state and is in compliance with such state's recordkeeping requirements.

~~K. Every registered investment advisor as a condition of its registration as an investment advisor under the Act hereby agrees and represents that:~~

~~1. All of the investment advisor's records, immediately upon the request of the commission, will be made available for inspection by the commission and reproduction for the commission in the office where such records are maintained;~~

~~2. All of the investment advisor's records (or legible copies of the same, or print outs of same, if automated) pertaining to the investment advisory business any part of which occurred or is to occur within the Commonwealth of Virginia will be made available for inspection of the commission in the office of the commission's Division of Securities and Retail Franchising within 48 hours after request of the commission for same;~~

~~3. The term "records" shall mean and include all books, papers, documents, tapes, films, photographs, electronic readable format or other materials, regardless of physical form or characteristics, (i) that are maintained for the recordation or storage of information prepared, used or to be used in connection with the investment advisory business or (ii) that were used or are to be used in connection with the investment advisory business;~~

~~4. Failure to comply with this subsection may be considered grounds for the institution of a proceeding to revoke an investment advisor's registration or other penalty prescribed by the Act;~~

~~5. Any investment advisor subject to an investigation made by the commission may be required to pay the actual cost of the investigation.~~

21VAC5-80-200. Dishonest or unethical practices.

A. An investment advisor or federal covered advisor is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor or federal covered advisor and his clients and the circumstances of each case, an investment advisor or federal covered advisor shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation, risk tolerance and needs, and any other

information known or acquired by the investment advisor or federal covered advisor after reasonable examination of the client's financial records.

2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor or federal covered advisor, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor or federal covered advisor is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment advisor or federal covered advisor.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor or federal covered advisor, or misrepresenting the nature of the advisory services being offered or fees to be charged for ~~such service~~ the services, or omission to state a material fact necessary to make the statements made regarding qualifications services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor without disclosing that fact. This prohibition does not apply to a situation where the advisor uses published research reports or statistical analyses to render advice or where an advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisors or federal covered advisors providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor or federal covered advisor or any of his employees which could reasonably be expected to

impair the rendering of unbiased and objective advice including:

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the advisor or his employees.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. ~~Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4) 1 under the Investment Advisers Act of 1940 (17 CFR 275.206(4) 1).~~ Directly or indirectly using any advertisement that does any one of the following:

a. Refers to any testimonial of any kind concerning the investment advisor or investment advisor representative or concerning any advice, analysis, report, or other service rendered by the investment [advisor] or investment advisor representative;

b. Refers to past specific recommendations of the investment advisor or investment advisor representative that were or would have been profitable to any person; except that an investment advisor or investment advisor representative may furnish or offer to furnish a list of all recommendations made by the investment advisor or investment advisor representative within the immediately preceding period of not less than one year if the advertisement or list also includes both of the following:

(1) The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each security; or

(2) A legend on the first page in prominent print or type that states that the reader should not assume that recommendations made in the future will be profitable or will equal the performance of the securities in the list;

c. Represents that any graph, chart, formula, or other device being offered can be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in the advertisement the limitations thereof and the risks associated to its use;

Regulations

d. Represents that any report, analysis, or other service will be furnished for free or without charge, unless the report, analysis, or other service actually is or will be furnished entirely free and without any direct or indirect condition or obligation;

e. Represents that the commission has approved any advertisement; or

f. Contains any untrue statement of a material fact, or that is otherwise false or misleading.

For the purposes of this section, the term "advertisement" includes any notice, circular, letter, or other written communication addressed to more than one person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any medium, that offers any one of the following:

(i) Any analysis, report, or publication concerning securities;

(ii) Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security or which security to buy or sell;

(iii) Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or

(iv) Any other investment advisory service with regard to securities.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor has custody or possession of such securities or funds, when the investment advisor's action is subject to and does not comply with the safekeeping requirements of 21VAC5-80-140.

16. Entering into, extending or renewing any investment advisory contract unless ~~such~~ the contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor or federal covered advisor and that no assignment of such contract shall be made by the investment advisor or federal covered advisor without the consent of the other party to the contract.

17. Failing to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially

related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.

B. An investment advisor representative is a fiduciary and has a duty to act primarily for the benefit of his clients. While the extent and nature of this duty varies according to the nature of the relationship between an investment advisor representative and his clients and the circumstances of each case, an investment advisor representative shall not engage in unethical practices, including the following:

1. Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment objectives, financial situation and needs, and any other information known or acquired by the investment advisor representative after reasonable examination of the client's financial records.

2. Placing an order to purchase or sell a security for the account of a client without written authority to do so.

3. Placing an order to purchase or sell a security for the account of a client upon instruction of a third party without first having obtained a written third-party authorization from the client.

4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within 10 business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

6. Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment advisor representative, or a financial institution engaged in the business of loaning funds or securities.

7. Loaning money to a client unless the investment advisor representative is engaged in the business of loaning funds or the client is an affiliate of the investment advisor representative.

8. Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment advisor representative, or misrepresenting the nature of the advisory services being offered or fees to be charged for

~~such service~~ the services, or omission to state a material fact necessary to make the statements made regarding qualifications [] services or fees, in light of the circumstances under which they are made, not misleading.

9. Providing a report or recommendation to any advisory client prepared by someone other than the investment advisor or federal covered advisor who the investment advisor representative is employed by or associated with without disclosing that fact. This prohibition does not apply to a situation where the investment advisor or federal covered advisor uses published research reports or statistical analyses to render advice or where an investment advisor or federal covered advisor orders such a report in the normal course of providing service.

10. Charging a client an unreasonable advisory fee in light of the fees charged by other investment advisor representatives providing essentially the same services.

11. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment advisor representative which could reasonably be expected to impair the rendering of unbiased and objective advice including:

- a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; or
- b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the investment advisor representative.

12. Guaranteeing a client that a specific result will be achieved as a result of the advice which will be rendered.

13. Publishing, circulating or distributing any advertisement that would not be permitted under Rule 206(4)-1 under the Investment Advisers Act of 1940.

14. Disclosing the identity, affairs, or investments of any client to any third party unless required by law or an order of a court or a regulatory agency to do so, or unless consented to by the client.

15. Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment advisor representative other than a person associated with a federal covered advisor has custody or possession of such securities or funds, when the investment advisor representative's action is subject to and does not comply with the safekeeping requirements of 21VAC5-80-140.

16. Entering into, extending or renewing any investment advisory or federal covered advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the

advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment advisor representative and that no assignment of such contract shall be made by the investment advisor representative without the consent of the other party to the contract.

17. Failing to clearly and separately disclose to its customer, prior to any security transaction, providing investment advice for compensation or any materially related transaction that the customer's funds or securities will be in the custody of an investment advisor or contracted custodian in a manner that does not provide Securities Investor Protection Corporation protection, or equivalent third-party coverage over the customer's assets.

C. The conduct set forth in subsections A and B of this section is not all inclusive. Engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices may be deemed an unethical business practice except to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

D. The provisions of this section shall apply to federal covered advisors to the extent that fraud or deceit is involved, or as otherwise permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290).

VA.R. Doc. No. R07-193; Filed June 20, 2007, 2:35 p.m.

Final Regulation

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: **21VAC5-110. Retail Franchising Act Rules (amending 21VAC5-110; adding 21VAC5-110-65, 21VAC5-110-75).**

Statutory Authority: §§12.1-13 and 13.1-572 of the Code of Virginia.

Effective Date: July 1, 2007.

Agency Contact: Thomas M. Gouldin, Deputy Director, Division of Securities and Retail Franchising, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9755, FAX (804) 371-9911, or email don.gouldin@scc.virginia.gov.

Summary:

The amendments provide for (i) an alternative method of complying with the financial requirements for applicants for registration and renewal of the franchise; (ii) escrow

Regulations

and deferral of franchise fees, including all of the requirements for complying with the new rules and any forms necessary to complete compliance with the new rule; and (iii) terms and conditions for a franchisor to request an exemption from the registration requirements of the Retail Franchising Act or to comply with a self-executing exemption, including the required filing fee for the exemption and any forms necessary to complete the application for the exemption process.

After receipt of public comments and a State Corporation Commission hearing, the following changes were made to the proposed regulation:

1. For consistency with the amended Retail Franchising Act, the phrase "to the franchisor" was added to subdivisions A and G of 21VAC5-110-65;
2. Subdivision B of 21VAC5-110-65 was changed to enable franchisors to use a federal or state chartered bank or trust company not located in the Commonwealth as an escrow depository, provided the bank or trust company is authorized to transact business in the Commonwealth;
3. For clarity, the phrase "48 hours" in subdivision D 2 of 21VAC5-110-65 was changed to "two business days;"
4. Subdivision E 1 of 21VAC5-110-65 was changed to provide that, upon release of escrowed funds to a franchisor, any interest earned shall also be distributed to the franchisor;
5. Subdivision 1 c of 21VAC5-110-75 was deleted;
6. For consistency with the amended Retail Franchising Act, the phrase "or exempt" was added to line five of subdivision 2 of 21VAC5-110-75;
7. Subdivisions 3 a (1) and (2) of 21VAC5-110-75 were changed to recognize the experience of affiliates or predecessors of the franchisor that have franchised the same business as the franchisor;
8. Subdivision 3 a (3) of 21VAC5-110-75 was deleted, eliminating the requirement of an initial investment by a franchisee of more than \$100,000;
9. Subdivision 4 of 21VAC5-110-75 was deleted, eliminating the exemption for franchises requiring an initial investment by a franchisee of more than \$1,000,000;
10. Subdivision 6 a of 21VAC5-110-75 was changed to delete references to "first personal meeting" and substitute "14 calendar" days for "10 business" days;
11. The opening clause of the Escrow Agreement (Form K) was amended to recognize nationally chartered banks in addition to state chartered banks;

12. Form H was amended to correspond with changes made to 21VAC5-110-75 and the Form H was amended; and

13. Other changes include renumbered subdivisions and references thereto, and changes to grammar and style.

AT RICHMOND, JUNE 18, 2007

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC-2007-00016

Ex Parte: In the matter of
Adopting a Revision to the Rules
Governing The Virginia Retail Franchising Act

ORDER ADOPTING AMENDED RULES

By order entered April 6, 2007, all interested persons were ordered to take notice that the State Corporation Commission ("Commission") would consider the adoption of a revision to Chapter 110 of Title 21 of the Virginia Administrative Code entitled "Virginia Retail Franchising Act Rules," which added new rules 21 VAC 5-110-65 and 21 VAC 5-110-75 (the "Rules"). On April 24, 2007, the Division of Securities and Retail Franchising ("Division") mailed the Order to Take Notice of the proposed Rules to all franchisor registrants and applicants as of April 16, 2007, and to all interested parties pursuant to the Virginia Retail Franchising Act, §§ 13.1-557 *et seq.* of the Code of Virginia. The Order to Take Notice described the proposed amendments and afforded interested parties an opportunity to file written comments or requests for hearing by May 16, 2007.

Nine comment letters were filed. Two of the comment letters were received after the May 16, 2007 deadline. Two of those commenting requested to be heard at the hearing, and one of the requests to be heard was made after the May 16, 2007 deadline. By motion, that commenter, James A. Wilson ("Wilson"), requested that his written comments be accepted out of time and to be heard at the hearing. The Division did not object to Wilson's request on the day of the hearing.

The Commission conducted a hearing on May 29, 2007. Staff entered into the record the Order to Take Notice, a copy of the originally proposed Rules, a copy of the certification of mailing, a copy of a summary of the comment letters with the Division's response, and a copy of the proposed Rules with the Division's accepted changes. The Commission took public testimony from three commenters.

The Commission, upon consideration of the proposed Rules, the recommendation of the Division for certain changes to be made in response to the comments, and the record in this case, finds that the proposed Rules should be adopted as modified.

Accordingly, IT IS ORDERED THAT:

(1) The proposed Rules, as modified, are attached hereto, made a part hereof, and are hereby ADOPTED effective July 1, 2007.

(2) This matter is dismissed from the Commission's docket, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY of this order shall be sent to each of the following by regular mail by the Division to: Christina M. Noyes, Esquire, Gust Rosenfeld, 201 East Washington, Suite 800, Phoenix, Arizona 85004-2327; Jeffrey I. Burnett, Group Vice President-Legal, Wyndham Hotel Group, 1 Sylvan Way, Parsippany, New Jersey 07054; Patrick J. Maslyn, Esquire, Hunton & Williams, LLP, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219-4074; R. Scott Caulkins, Esquire, LeClair Ryan, 225 Reinekers Lane, Suite 700, Alexandria, Virginia 22314; Stephen W. Maxey, Maxey Consulting Group, LLC, 22307 Hixson Court, Richmond, Virginia 23236; O. Mabelle Morris, General Counsel, American Lenders Service Co., P.O. Drawer 7238, Odessa, Texas 79760-7238; David French, Vice President, Government Relations, International Franchise Association, 1501 K Street, N.W., Suite 350, Washington, D.C. 20005; A Corp d/b/a Rooterman, c/o Jenny J. Liu, Esquire, P.O. Box 290, Billerica, Massachusetts 01862; James M. Wilson, Esquire, Wilson Stoyanooff, 3741 Westerre Parkway, Suite D, Richmond, Virginia 23233; the Commission's Division of Information Resources and Office of General Counsel; and such other persons as the Division deems appropriate.

CHAPTER 110

RETAIL FRANCHISING ACT RULES AND FORMS

21VAC5-110-65. Escrow and deferral.

A. Escrow requirement. The commission may require a franchisor to escrow franchise fees and other payments made by a franchisee [to the franchisor] until the franchisor's pre-opening obligations under the franchise agreement have been satisfied. The commission may require escrow at any time after the submission of a registration or renewal application and upon a finding that the grounds enumerated in clause (i) of subdivision A 2 of §13.1-562 of the Act as provided in Chapter 668 of the 2007 Acts of Assembly exist.

B. Depository. Funds subject to an escrow condition shall be placed in a separate trust account with a national bank located [in Virginia] or a [Virginia] state chartered bank or trust company [transacting business in the Commonwealth of Virginia].

C. Compliance with escrow requirement. The franchisor shall file with the commission the following to comply with the commission's escrow requirement:

1. An original, fully executed copy of the Escrow Agreement, Form K;

2. A written consent from the depository agreeing to operate the escrow account under this regulation;

3. The name and address of the depository and the account number of the escrow account;

4. The name, address, telephone number and email address of an individual or individuals at the depository who may be contacted by the commission regarding the escrow account; and

5. An amended franchise application reflecting, in Item 5 of the offering circular or in a Virginia Addendum to the offering circular, that the commission has imposed the escrow requirement and the material terms of that escrow condition, including the name of the depository.

D. Operation of escrow account. After the commission imposes an escrow requirement upon the franchisor, the franchisor shall:

1. Make franchisee checks for franchise fees or other payments for the franchisor payable to the depository; and

2. Deposit with the depository, within [48 hours two business days] of the receipt, the funds described in subdivision 1 of this subsection;

Deposits made to the depository shall remain escrowed until the commission authorizes the release of the funds.

E. Release of escrowed funds.

1. A franchisor may apply to the commission for the release of escrowed funds [together with any interest earned].

2. A franchisor's application to the commission to authorize the release of escrowed funds to the franchisor shall be in writing, verified by an authorized officer of the franchisor and shall contain:

a. The franchisor's statement that all proceeds from the grant of franchises have been placed with the depository in accordance with the terms and conditions of the escrow requirement;

b. The depository's statement, signed by an appropriate officer, setting forth the aggregate amount of escrowed funds deposited with the depository and the franchisor's account number with the depository;

c. A list of the names and addresses of each franchisee and the amount held in the escrow account for the account of each franchisee;

d. The amount of funds sought to be released;

e. A written certification from the franchisee stating the amount of funds to be released that acknowledges that the franchisor has completely performed its pre-opening obligations under the franchise agreement, including providing real estate, improvements, equipment,

Regulations

inventory, training, or other items as required by the franchise agreement; and

f. Other information the commission may reasonably require.

3. If the commission finds that the franchisor has fulfilled its obligations under the franchise agreement for a specified franchisee, the commission shall authorize the depository to release to the franchisor the amount held in escrow for the account of the applicable franchisee.

F. Removal of escrow requirement. The commission may remove the escrow requirement at any time, if:

1. The franchisor agrees to defer franchise fees and other initial payments; or

2. Based upon new information, the commission finds that the escrow requirement is no longer necessary and appropriate for the protection of prospective franchisees.

G. Deferral of fees in place of escrow requirement.

1. In lieu of an escrow requirement, the commission may, under appropriate circumstances, accept a franchisor's agreement to defer franchise fees and other initial payments owed by franchisees [to the franchisor] until the franchisor has completed its pre-opening obligations under the franchise agreement.

2. The franchisor's agreement to defer franchise fees shall be reflected in Item 5 of the offering circular or in a Virginia Addendum to the offering circular.

21VAC5-110-75. Exemptions.

Any offer or grant of a franchise in a transaction that meets the requirements of this section is exempt from the registration requirement of §13.1-560 of the Act.

1. Sale or transfer by existing franchisee. The sale or transfer of a franchise by a franchisee who is not an affiliate of the franchisor for the franchisee's own account is exempt if:

a. The franchisee's entire franchise is sold or transferred and the sale or transfer is not effected by or through the franchisor.

b. The sale or transfer is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove the sale or transfer or requires payment of a reasonable transfer fee.

[e. ~~The right to approve or disapprove the sale or transfer shall be exercised in a reasonable manner.~~]

2. Offers and grants to existing franchisees. The offer or grant of an additional franchise to an existing franchisee of the franchisor for the franchisee's own account is exempt if the franchise being sold is substantially the same as the franchise that the franchisee has operated for at least two

years at the time of the offer or grant of the franchise, provided the prior sale to the franchisee was pursuant to a franchise offering that was registered [or exempt] pursuant to the requirements of the Act.

3. Seasoned franchisor.

a. The offer or grant of a franchise by a franchisor is exempt if [~~the franchisor~~] :

(1) [~~Has~~ The franchisor has] a net equity, according to its most recently audited financial statements, of not less than \$15,000,000 on a consolidated basis, or \$1,000,000 [on an unaudited basis] and is at least 80% owned by a corporation or entity that has a net equity, on a consolidated basis, according to its most recently audited financial statements, of not less than \$15,000,000, and the 80% owner guarantees the performance of the franchisor's obligations; [and]

(2) [~~Has~~ The franchisor or any 80% owner of the franchisor or the franchisor's predecessor, or any combination thereof, has] had at least 25 franchisees conducting the same franchise business [~~at all times during the~~ to be offered or granted for the entire] five-year period immediately preceding the offer or grant; [and

(3) ~~Requires an initial investment by the franchisee of more than \$100,000.~~]

b. The exemption set forth in subdivision 3 of this section may be claimed only if the franchisor:

(1) Files a Form H Notice of Claim of Exemption and other material as set forth in subdivision [~~7 6~~] of this section no later than 10 business days before the offer or grant of any franchise; and

(2) Submits financial statements demonstrating compliance with the conditions set forth in subdivision 3 a (1) of this section.

c. An initial exemption filing and any renewal filing shall expire after a period of one year. The franchisor shall file for a renewal by making an exemption filing if it intends to offer or grant franchises for any additional period annually, at least 10 business days before the expiration of the previously filed Notice of Claim of Exemption.

[4. ~~Sophisticated franchisee.~~

a. ~~The offer or grant of a franchise for which the franchisor requires an initial investment by the franchisee of more than \$1,000,000 is exempt.~~

b. ~~The exemption set forth in subdivision 4 a of this section may be claimed only if the franchisor files a Form H, Notice of Claim of Exemption, and other material as set forth in subdivision 7 of this section, no~~

~~later than 10 business days before the offer or grant of any franchise.~~

~~e. An initial exemption filing and any renewal exemption filing shall expire after a period of one year. The franchisor must file for a renewal by making an exemption filing if it intends to offer or grant franchises for any additional period annually, at least 10 business days before the expiration of the previously filed Notice of Claim of Exemption.~~

~~5.4.] Institutional franchisee.~~

a. The offer or grant of a franchise to a bank, savings bank, savings and loan association, trust company, insurance company, investment company, or other financial institution, or to a broker-dealer is exempt when the:

(1) Purchaser is acting for itself or in a fiduciary capacity; and

(2) Franchise is not being purchased for the purpose of resale to an individual not exempt under this regulation.

b. The exemption set forth in subdivision [~~5.4~~] a of this section may be claimed only if the franchisor files an initial filing Form H, Notice of Claim of Exemption, and other material as set forth in subdivision [~~7.6~~] a of this section, at least 10 business days before each offer or grant of each franchise.

~~[6.5.] Disclosure requirements.~~

a. If a franchisor relies upon any of the exemptions set forth in subdivision 2, 3 [~~2~~ or] 4 [~~or 5~~]-of this section, the franchisor shall provide an offering circular complying with 21VAC5-110-90, or Federal Trade Commission (FTC) disclosure document pursuant to 16 CFR Part 436, together with all proposed agreements relating to the grant of the franchise to a prospective franchisee at the earlier of:

(1) The prospective franchisee's first personal meeting with the franchisor; or

(2) Ten business days before the signing of the agreement or the payment of any consideration.

b. Franchisors filing a claim of exemption under subdivisions 3 [~~2~~ or] 4 [~~or 5~~] of this section shall include a self-addressed stamped envelope by which the commission may return to the franchisor a confirmation of receipt of the filing and the exemption file number assigned. Correspondence shall refer to the assigned file number in all subsequent related filings and correspondence with the commission.

7. Filing requirements for exemptions set forth in subdivisions 3, 4 and 5 of this section.

a. Initial exemption filing.

(1) The initial exemption period shall expire after a period of one year.

(2) Franchisor files an application for exemption of a franchise by filing with the commission no later than 10 business days before the offer or grant of any franchise, the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) Uniform Consent to Service of Process, Form D;

(c) If the applicant is a corporation or partnership, an authorizing resolution is required if the application is verified by a person other than applicant's officer or general partner;

(d) Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436;

(e) Files an undertaking by which it agrees to supply any additional information the commission may reasonably request; and

(f) Application fee of \$500 (payable to the Treasurer of Virginia).

b. Amendment to exemption filing.

(1) Upon the occurrence of a material change, the franchisor shall amend the effective exemption filed at the commission.

(2) An application to amend a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the amended Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436; and

(c) Application fee of \$100 (payable to the Treasurer of Virginia).

c. Renewal exemption filing.

(1) A franchise exemption expires at midnight on the annual exemption effective date. An application to renew the franchise exemption shall be filed 10 days prior to the expiration date in order to prevent a lapse of exemption under the Act.

(2) An application for renewal of a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the Uniform Franchise Offering Circular or FTC disclosure document pursuant to 16 CFR Part 436; and

Regulations

(c) Application fee of \$250 (payable to the Treasurer of Virginia).

NOTICE: The forms used in administering 21 VAC 5-110, Retail Franchising Act Rules are not being published; however, the name of each form is listed below. The forms are available for public inspection at the State Corporation Commission, 13 South 13th Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

FORM A, "Facing Page" - Uniform Franchise Registration Application (eff. 7/1/95).

FORM B, Supplemental Information (eff. 7/1/95).

FORM C, Certification (rev. 7/99).

FORM D, Uniform Consent to Service of Process (rev. 7/99).

FORM E, Affidavit of Compliance - Franchise Amendment/Renewal (rev. 7/99).

FORM F, Guarantee of Performance (rev. 7/99).

FORM G, Franchisor's Surety Bond (rev. 7/99).

FORM H, Notice of Claim of Exemption (eff. 7/07).

FORM K, Escrow Agreement (eff. 7/07).

V.A.R. Doc. No. R07-192; Filed June 20, 2007, 2:37 p.m.

◆ ————— ◆

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF SOCIAL SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt 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 Board of Social Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 22VAC40-35. Virginia Independence Program (amending 22VAC40-35-10, 22VAC40-35-80, 22VAC40-35-90, 22VAC40-35-100).

Statutory Authority: §63.2-217 of the Code of Virginia.

Effective Date: September 1, 2007.

Agency Contact: Mark L. Golden, TANF Program Manager, Department of Social Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7385, FAX (804) 726-7356 or email mark.golden@dss.virginia.gov.

Summary:

This regulation is amended in accordance with Chapter 568 of the 2007 Acts of Assembly. The definition of work activity is amended to include the activities allowed in federal law and regulation: job search and job readiness, vocational education, job skills training, community service, and certain educational activities. Expanding the definition of work activities will allow greater flexibility in meeting the disparate needs of customers. Expanding activities increases the chances that a customer is placed in an activity that is countable for work participation rate purposes.

Adult recipients of Temporary Assistance for Needy Families (TANF) must participate in the Virginia Initiative for Employment not Welfare (VIEW) Program unless otherwise exempt. The exemption for caring for a young child has been added to the regulation. The age of the child has been changed from 18 months to 12 months. Nonparents must now participate in VIEW. Pregnant women must now participate in VIEW, but activities are limited to job readiness, training, and education.

The regulation establishes a transitional benefit; VIEW participants that end TANF eligibility with employment are eligible for monthly job retention payments for up to one year if they maintain employment an average of 30 hours per week.

The priority order of work assignments is removed to provide greater flexibility for staff and participants.

To provide greater flexibility for participants and staff, work activities have been expanded to include the activities allowed in federal law and regulation: job search and job readiness, vocational education, job skills training, community service, and certain educational activities.

22VAC40-35-10. Definitions.

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

"Actively seeking employment" means satisfactorily participating in any assigned job-seeking activity while in the program.

"Adult portion" means the TANF amount paid on behalf of the parent or other caretaker-relative with whom the TANF child resides, including a minor parent. This amount is the difference in the standard of assistance for a family size which includes the adult and the standard of assistance for a family size of one less person.

"AFDC-Foster Care" means a federal program authorized under §472 of the Social Security Act (42 USC §672) and administered by the Virginia Department of Social Services,

which provides financial assistance on behalf of qualifying children.

"Agreement" means the written individualized agreement of personal responsibility required by §63.1-133.49 of the Code of Virginia.

"Allotment" means the monthly food stamp benefit given to a household.

"Applicant" means a person who has applied for TANF or TANF-UP benefits and the disposition of the application has not yet been determined.

"Assistance unit" means those persons who have been determined categorically and financially eligible to receive assistance.

"Caretaker-relative" means the natural or adoptive parent or other relative, as specified in 45 CFR 233.90(c)(1)(v), who is responsible for supervision and care of the needy child.

"Case management" means the process of assessing, coordinating, monitoring, delivering or brokering activities and services necessary for VIEW participants to enter employment or employment-related activities as quickly as possible.

"Case management services" means services which include, but are not limited to, job development and job placement, community work experience, education, skills training, and support services.

"Case manager" means the worker designated by the local department of social services, a private-sector contractor or a private community-based organization including nonprofit entities, churches, or voluntary organizations that provide case management services.

"Child day care" means those services for which a participant is eligible pursuant to child day care services policy.

"Child day care services/program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of children under the age of 13 (or children up to 18 years of age if they are physically or mentally incapable of caring for themselves or subject to court supervision) for less than a 24-hour period.

"Community work experience" means work for benefits in a public or private organization that serves a community/public function.

"Department" means the Virginia Department of Social Services.

"Diversionary cash assistance" means a one-time lump sum payment to an individual or third-party vendor to prevent long-term receipt of TANF.

"Division of Child Support Enforcement" or "DCSE" means that division of the Virginia Department of Social Services which is responsible under Title IV-D of the Social Security Act (42 USC §§651-669) to locate noncustodial parents, establish paternity, establish child support and health care orders, enforce payment of delinquent support, and collect and distribute support payments.

"Employer tax credit" means a tax credit available to an employer pursuant to §58.1-439.9 of the Code of Virginia.

"Family" means a TANF assistance unit.

"Food Stamp Program" means the program administered through the Virginia Department of Social Services through which a household can receive food stamps with which to purchase food products.

"Full Employment Program" or "FEP" means subsidized, training-oriented, employment which replaces the TANF and food stamp benefits of a participant. This component of VIEW is designed to train the recipient for a specific job, increase his self-sufficiency and improve his competitiveness in the labor market.

"Full-time unsubsidized employment" means employment which is considered by the employer to be full time, but in no case less than 30 hours per week, and for which no JOBS, VIEW, TANF, or food stamp funds are used to pay the individual's salary.

"Grant" means the monthly TANF benefit payment.

"Hardship exceptions" means prescribed reasons which, if applicable, would allow an extension of receipt of TANF benefits.

"He" means a male or female, as applicable.

"Hiring authority" means an individual with the authority to hire employees for a business.

"In loco parentis" means an adult relative or other adult who is acting in place of a parent.

"Incapacitated" means a medically verified condition which renders an individual unable to work.

"Job Opportunities and Basic Skills Training Program (JOBS)" means the program authorized by Title IV-F of the Social Security Act (42 USC §§681-687). This program provides education, training and work experience to enhance employment opportunities for TANF recipients who are not exempt from participation.

"Job finding" means identification of available jobs.

"Job matching" means matching a participant's minimum skills or prior work experience to available job openings.

"Job placement" means placing a participant in an unsubsidized or subsidized job. Job placement is the result of job finding and job matching.

Regulations

"Job search" means a structured, time-limited period in which the participant is required to search for employment. To complete the job search, the participant must search and apply for a set number of jobs.

"Job skills training" means training in technical job skills or required knowledge in a specific occupational area in the labor market.

"Local agency" or "local department" means any one of the local social services or welfare agencies throughout the Commonwealth which administers the VIP program.

"Minor parent" means any parent under 18 years of age.

"On-the-job training" means training which is provided by an employer during routine performance of a job.

"Parent" means a mother or father, married or unmarried, natural, or adoptive following entry of an interlocutory order. The parent may be a minor parent.

"Participant" means a TANF or TANF-UP recipient who is participating in the VIEW program.

"Participating family" means an assistance unit including a parent who participates in the Virginia Initiative for Employment not Welfare (VIEW) Program.

"Part-time unsubsidized employment" means employment of at least eight hours but less than 30 hours per week and for which no JOBS, VIEW, TANF, or food stamp funds are used to pay the individual's salary.

"Post-secondary education" means formal instruction at an institution of higher education or vocational school leading to the attainment of a certificate, an associate degree, or a baccalaureate degree.

"Qualified business employer" means an employer whose business employed not more than 100 employees at the time that the employer first hired a qualified employee.

"Qualified employee" means an employee who is a Virginia resident and is a recipient of Temporary Assistance for Needy Families (TANF).

"Qualified employer" means an employer who may participate in the Virginia Targeted Jobs Grant Program by virtue of meeting all of the program criteria for employers.

"Qualified participant" means a Virginia Initiative for Employment not Welfare participant who meets all of the program criteria and may be hired by a qualified employer.

"Recipient" means an individual who is presently receiving a TANF assistance payment or whose eligibility exists even though the assistance payment is zero.

"Recipient family" means an assistance unit in which the caretaker-relative is a parent of the eligible child and the parent's needs may or may not be included on the grant.

"Relative" means spouse, child, grandchild, parent, or sibling of a qualified employer.

"Sanction" means to reduce or suspend a participant's TANF grant or food stamp allotment or both, where applicable, for noncompliance with these regulations or the statute.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within this Commonwealth or (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12.

"Support services" means services such as child care or transportation provided to program participants to enable the participant to work or to receive training or education which are intended to lead to employment.

"Temporary Assistance for Needy Families" or "TANF" means the program authorized in §406 of the Social Security Act (42 USC §606) and administered by the Virginia Department of Social Services, through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the program authorized in §63.1-105 of the Code of Virginia and administered by the Virginia Department of Social Services, which provides aid to two-parent families with dependent children who are in financial need.

"Time limitations" means a specified period of time, under the statute, to receive TANF.

"Transitional support services" means child care, transportation, medical assistance or employment and training services provided to working participants whose TANF has been terminated either voluntarily, although still eligible for TANF, or involuntarily, due to time limitations.

"Truant" means a child who (i) fails to report to school for three consecutive school days, or for a total of five scheduled school days per month or an aggregate of seven scheduled school days per school calendar quarter, whichever occurs sooner, and no indication has been received by school personnel that the child's parent or guardian is aware of the child's absence, and a reasonable effort by school personnel to notify the parent or guardian has failed; or (ii) is not enrolled in school at any time during the month.

"Underemployed" means working at a job for less than the federal hourly minimum wage.

"Unsubsidized employment" means employment in which no government funds are used to subsidize directly the wages earned by a participant.

"Virginia Independence Program" or "VIP" means the program in the Commonwealth of Virginia which is made up

of the TANF Program and the Virginia Initiative for Employment not Welfare.

"Virginia Initiative for Employment not Welfare" or "VIEW" means the Job Opportunities and Basic Skills Training Program as implemented in the Commonwealth.

"Virginia Targeted Jobs Grant" or "VTJG" means a grant paid to an employer in accordance with §63.1-25.3 of the Code of Virginia.

"Work activity" means participation in unsubsidized employment, FEP, part-time work, community work experience, ~~or~~ on-the-job training, job search, job readiness, community service, job skills training directly related to employment, satisfactory attendance at secondary school, or in a course of study leading to a certificate of general equivalence.

Part II

Eligibility Requirements

22VAC40-35-80. Participant eligibility.

A. Individuals unable to participate because of a temporary medical condition that prevents entry into employment or training, as determined by a physician, must provide to the local department a written statement from ~~such~~ a physician to specify that he is incapacitated, the nature and scope of the incapacity, and the duration of the incapacity. The worker must reevaluate the participant's incapacity at the time prescribed by the medical statement or every 60 days, whichever comes first. The recipient must provide verification that he continues to be incapacitated.

B. Any individual who is the sole caregiver of another member of the household who is incapacitated, and whose presence is essential for the care of the other member on a substantially continuous basis, shall be exempt from participation in VIEW. Incapacity is determined by receipt of Social Security Disability Benefits or Supplemental Security Income. The sole other condition under which an individual may be determined incapacitated is by a written medical statement from a physician.

C. AFDC recipients who meet an exemption from participation in VIEW may volunteer for the program.

D. A parent of a child under 12 months of age who personally provides care for the child. A parent of a child not considered part of the TANF public assistance unit due to the provisions listed in §63.2-604 of the Code of Virginia may be granted a temporary exemption of not more than six weeks after the birth of such child.

E. Nonparents who receive TANF shall participate in VIEW if not otherwise exempt.

F. Pregnant women shall participate in VIEW if not otherwise exempt. Pregnant women shall be assigned to job

readiness, training, and educational activities during the last trimester of pregnancy.

22VAC40-35-90. Services.

A. The participant shall have the primary responsibility to arrange transportation to be employed or participate in activities required by the Agreement of Personal Responsibility. Transportation shall be provided only when the participant is unable to make the necessary arrangements.

B. The local department shall provide transitional medical assistance in accordance with the Department of Medical Assistance Services State Plan and regulations.

C. The local departments may provide those services itemized in §63.1-133.46 C of the Code of Virginia.

D. Transitional employment and training services shall be through the VIEW program to certain individuals.

1. Transitional employment and training services can be provided if the following criteria are met:

- a. The individual is already employed or the provisions of the employment and training services would allow the individual to become reemployed within 60 days.
- b. The activities are designed to maintain employment income, increase employment income or prevent the loss of employment income by the participant.
- c. The individual had been enrolled in the VIEW program.
- d. The TANF case of which the individual was a member is closed.
- e. The case had not been in a VIEW sanction at the time of closure.
- f. The individual has not completed an associate degree or four-year degree.

2. The individual can only receive up to 12 months of transitional employment and training services available through the VIEW program.

3. The individual shall enroll in an activity which can be completed within the 12-month time period.

4. An individual can only be enrolled in an activity if approved by a VIEW employment services worker.

5. Individuals may be enrolled only in education and training activities for which there are jobs in the community or jobs are projected to become available in the community.

6. Continued enrollment in education and skills training activities is dependent upon meeting the satisfactory progress requirements for participation in these activities.

Regulations

a. For education below the post-secondary level (Adult Basic Education and General Equivalency Diploma), the individual must obtain one grade level increase every three months.

b. For certificate and job skills training activities, the participant must meet the satisfactory progress requirements of the institution providing the training.

7. Participants shall not be assigned to FEP (Full Employment Program).

E. A VIEW participant shall be eligible for a transitional job retention assistance payment of \$50 per month for up to one year after the end of TANF cash assistance. To qualify the participant shall:

1. Be employed at the end of TANF cash assistance;
2. Maintain employment of at least 30 hours per week; and
3. Provide verification of earnings and continued employment of at least 30 hours per week.

22VAC40-35-100. VIEW activities.

A. VIEW recognizes that parents have the obligation to support their children through work/employment.

B. VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients. VIEW shall require an Agreement of Personal Responsibility and the obligation to seek and obtain employment. Refusal to sign the Agreement of Personal Responsibility shall result in termination of AFDC and food stamps. The Agreement of Personal Responsibility shall be written for each nonexempt participant specifying, among other applicable requirements, the following:

1. The participant's obligations and responsibilities:
 - a. That it is the participant's responsibility to seek employment to support his own family.
 - b. That it is the participant's responsibility to participate in assignments made by the case manager.
 - c. That it is the participant's responsibility to notify the case manager of any change in the participant's circumstances which would impact the participant's ability to satisfactorily participate in the program.
 - d. That it is the participant's responsibility to accept offers of suitable employment. Refusal to accept offers of suitable employment will result in the loss of the participant household's AFDC and food stamps. Loss of food stamps for refusal to accept offers of suitable employment will result in the entire household's food stamp allotment being terminated when the participant is the head of household. If the participant is not the head of the household, only the participant's prorata share shall be removed from the allotment.

e. That it is the participant's responsibility to arrange and find transportation and day care. The agency will provide for transportation and day care, to the extent funding is available, only when the participant is unable to make his own arrangements.

2. Explanation of the two-year time limit.

C. Modification of the Agreement of Personal Responsibility shall not impact or change the two-year time limit for receipt of AFDC benefits.

D. A VIEW participant who does not meet an exemption ~~and who is not employed in unsubsidized employment within 90 days of receipt of AFDC~~ shall be required to participate in a work activity. The department shall ensure that participants are assigned to one of the following employment categories ~~in priority order~~ not less than 90 days after AFDC eligibility determination:

1. Unsubsidized private sector employment (full-time, part-time or temporary) is the preferred employment category. A participant shall be required to accept any offers of suitable employment as defined in §60.2-618 of the Virginia Unemployment Compensation Act.

2. Subsidized employment as follows:

a. The department shall conduct a work activity which shall be known as the Full Employment Program (FEP), which shall replace AFDC and food stamp benefits with subsidized employment.

b. The local department, employer and the full employment participant shall sign a written agreement. At the expiration of this full employment agreement or when the participant leaves FEP, he will be reassessed and a modified Activity and Service Plan will be developed to reassign the participant to an appropriate employment category.

c. The employer is reimbursed for the wages paid to the participant up to the combined value of the participant's AFDC and food stamps as contained in the agreement signed between the department and the employer.

(1) The employer subsidy will be based on the actual hours the participant works.

(2) The value of the participant's AFDC and food stamp benefits will be based on the benefits received over the period of assignment to a Full Employment Program placement.

3. Community work experience.

a. ~~If the~~ The participant cannot can be placed into ~~an unsubsidized job or Full Employment Program, the participant must be placed into~~ community work experience. ~~The department and local departments shall expand the community work experience program~~

~~authorized under the Job Opportunity and Basic Skills Training Program (JOBS) to include job placement in community work experience programs which Job placements shall~~ serve a useful public purpose as provided in §482 (f) of the Social Security Act (42 USC §682 F).

b. The department and local departments shall work with other state, regional, and local agencies and governments in developing job placements. Placements shall be selected to provide skills that will make the participant more employable and serve a public function. Participation in community work experience shall be for an initial period of six months. Program participants shall not displace regular workers.

c. At the expiration of the community work experience assignment or when the participant leaves community work experience, he will be reassessed and a modified Activity and Service Plan will be developed to reassign the participant to an appropriate employment category.

d. There shall be no sick leave benefit attached to this component since participants work in exchange for their AFDC and food stamp benefits. Participants who are ill or incapacitated will continue to receive their benefits.

4. In order to be considered a work activity in VIEW, on-the-job training must be provided by an employer. This is typically employer-required unpaid training by an employer which must be completed before an individual will be hired.

E. Other VIEW activities ~~in conjunction with work~~ include:

1. Education.

a. Education may only be provided in conjunction with work-related activities during the participant's two-year time period.

(1) Only eight hours per week of community work experience hours can be provided for educational activities during the participant's initial six-month placement in community work experience. After six months of participation in community work experience, the number of hours required in the work activity can be reduced to allow participation in education to further the participant's employability.

(2) Participants who enroll into education or training programs prior to coming in VIEW shall be required to meet the requirements of the program.

b. Post-secondary education. Participants assigned to post-secondary education should have demonstrated the capability to successfully complete the educational activity in the prescribed time period in an occupational area for which there is demand in the community.

2. Job skills training may only be provided in conjunction with work-related activities during the participant's two-year time period. The choice of occupational skills training offered will vary in each jurisdiction depending upon local labor market conditions. However, skills training must be related to the types of jobs which are available or are likely to become available in the community.

3. Job search and job readiness.

4. Community service.

5. Vocational education.

VA.R. Doc. No. R07-286; Filed June 21, 2007, 2:24 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, or 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 Stephen A. Walz, Department of Mines, Minerals and Energy, 202 North Ninth Street, Richmond, Virginia 23219, telephone (804) 692-3200.

Title of Regulation: 4 VAC 25-20. Board of Coal Mine Examiners Certification Requirements.

FORMS

Application for Certification Examination, DM-BCME-1 (rev. ~~10/05~~ 6/07).

Verification of Work Experience, DM-BCME-2 (rev. 10/05).

Verification of Training Completed for General Coal Miner Certification, DM-BCME-3 (rev. ~~10/05~~ 6/07).

Application for Recertification: DMLR Endorsement/Blaster's Certification, DMLR-BCME-3 (rev. 6/95).

Verification for Training Completed for Continuing Education, DM-BCME-4 (rev. 10/05).

Application for DMLR Endorsement: Blaster's Certification (Coal Surface Mining Operation), DMLR-BCME-4 (rev. 6/95).

Advanced First Aid Practical Stations & CPR (Written & Practical), DM-BCME-5 (rev. 10/05).



Board of Coal Mining Examiners
P.O. Drawer 900
Big Stone Gap, VA 24219
(276) 523-8149

Application for Certification Examination

Applicants for certification must complete this form. Type or print the information in black ink and pay the non-refundable fee with a certified check, cashier's check or money order made payable to the Treasurer of Virginia. Cash will be accepted if paid in person. Submit the application and fee to the Board of Coal Mining Examiners at least five working days prior to the date of examination.

1. Full Name _____

2. Address _____
Street or P.O. Box City State Zip Code

3. Date of Birth _____ Home Phone No. () _____
Month/Day/Year

4. Total years employed at a coal mine: _____
Underground Surface

5. List your current (or most recent) mining experience

Company Name _____

Address _____
Street or P. O. Box City State

Job Title _____ From _____ To _____
Month/Day/Year Month/Day/Year

6. Attach copies of the required documentation needed for each certification.

7. Examination Requested (Check One) *BCME Instructor check the courses you wish to teach

- | | | |
|---|---|---|
| <input type="checkbox"/> Advanced first aid
<input type="checkbox"/> KY Reciprocity
<input type="checkbox"/> WV Reciprocity | <input type="checkbox"/> Automatic elevator operator | <input type="checkbox"/> Blaster endorsement-DMLR (no fee) |
| <input type="checkbox"/> Chief electrician (sur/UG or sur) | <input type="checkbox"/> Diesel engine mechanic instructor | <input type="checkbox"/> Dock foreman |
| <input type="checkbox"/> Electrical maintenance foreman (sur/UG or surface) | <input type="checkbox"/> Advanced first aid instructor | <input type="checkbox"/> First class mine foreman
<input type="checkbox"/> WV Reciprocity |
| <input type="checkbox"/> General coal miner
<input type="checkbox"/> Surface (strip, auger, truck drivers)
<input type="checkbox"/> Underground (underground) | <input type="checkbox"/> First class shaft or slope foreman | <input type="checkbox"/> Gas detection qualification (no fee) |
| <input type="checkbox"/> Mine inspector | <input type="checkbox"/> Hoisting Engineer | <input type="checkbox"/> Instructor - BCME* |
| <input type="checkbox"/> Surface facilities foreman for shops, labs, and warehouses | <input type="checkbox"/> Electrical reinstatement MSHA | <input type="checkbox"/> Preparation Plant Foreman |
| <input type="checkbox"/> Underground diesel engine mechanic | <input type="checkbox"/> Surface blaster | <input type="checkbox"/> Electrical repairman Surface
<input type="checkbox"/> KY Recognition
<input type="checkbox"/> WV Reciprocity |
| | <input type="checkbox"/> Surface foreman
<input type="checkbox"/> WV Reciprocity | <input type="checkbox"/> Top person |
| | <input type="checkbox"/> Underground electrical repairman
<input type="checkbox"/> KY Recognition
<input type="checkbox"/> WV Reciprocity | <input type="checkbox"/> Underground shot firer |

I hereby certify that the above answers are true to the best of my knowledge and belief. Disciplinary actions taken against mining certifications, for any reason, will be shared with other reciprocating coal program states and Federal mining agencies.

Signed _____ Date _____

DM-BCME-1 (Revised 06/20/07)



Board of Coal Mining Examiners
 P.O. Drawer 900
 Big Stone Gap, VA 24219
 (276) 523-8149

Verification of Training Completed for General Coal Miner Certification

Type or print this form in black ink and submit the non-refundable fee to the **Board of Coal Mining Examiners** in the form of a certified check, cashier's check, or money order made payable to the **Treasurer of Virginia**. Cash will be accepted if paid in person at a Division of Mines' (DM) office.

1. Full Name _____ Date of Birth _____

2. Address _____
 Street or P.O. Box _____ City _____ State _____ Zip Code _____

3. Home Phone No. () _____ Date of Employment _____

4. Employer Company Name _____ Mine Name _____
 Address _____
 Street or P.O. Box _____ City _____ State _____ Zip Code _____

5. Job title/description of job duties _____

6. I received training in first aid and Virginia's coal mining law and regulations on _____ or I have
 attached a copy of my valid first aid card. _____
 Date or Dates

I hereby certify that the above answers are true to the best of my knowledge and belief. Disciplinary actions taken against mining certifications, for any reason, will be shared with other reciprocating coal program states and Federal mining agencies.

Signed _____ Date _____
 Signature of applicant for certification

I hereby certify to the BCME that the training I provided to the applicant set forth above meets the requirements of Virginia Code §45.1-161.37 and the Virginia Administrative Code 4 VAC 25-20, and the applicant has satisfactorily demonstrated to me the required knowledge of first aid practices and the mine safety laws of Virginia.

Name printed and signed _____
 Certified foreman or instructor approved by DM providing training

Cert. No. _____

Name printed and signed when the applicant is hired _____
 Mine operator employing applicant

DM-BCME-3 (Revised 06/27/07)

GENERAL NOTICES/ERRATA

STATE CORPORATION COMMISSION

Bureau of Insurance

June 29, 2007

Administrative Letter 2007-7

TO: All Managed Care Health Insurance Plans and Interested Parties

RE: Rules Governing Independent External Review of Final Adverse Utilization Review Decisions (14 VAC 5-215-10 et seq.)

As the result of 2007 House Bill 3137, changes were made to Chapter 59 (§ 38.2-5900 et seq.) of Title 38.2 of the Code of Virginia relating to the independent external review of final adverse utilization review decisions. The State Corporation Commission also recently adopted changes to the Rules Governing Independent External Review of Final Adverse Utilization Review Decisions (Rules), at 14 VAC 5-215-10 et seq. to address the recent legislative changes. This letter serves to identify a number of these changes and to provide guidance to carriers in implementing them. The statutory and regulatory changes will take effect on July 1, 2007.

Among the significant statutory changes resulting from House Bill 3137 are the following:

- A provision for expedited consideration of appeals involving a terminal condition has been included;
- The Commissioner of Insurance or his designee must issue a written ruling affirming, modifying, or reversing a final adverse decision no later than one business day following receipt of the assigned impartial health entity's recommendation concerning a condition that would be terminal without the requested treatment; and
- The failure by the utilization review entity to comply with the written ruling of the Commissioner or his designee within three business days following receipt by the utilization review entity of an expedited ruling shall be deemed a knowing and willful violation.

Similarly, the Rules were revised to address the above legislation. The following significant changes should be noted:

- 14 VAC 5-215-30 – the definition of "Emergency medical condition" was revised to include a health condition which would be terminal without the requested treatment, as determined by the person's treating health care provider.
- 14 VAC 5-215-80 was revised to state that if the decision is regarding treatment for a covered person whose condition would be terminal without the treatment, the Commissioner of Insurance or his

designee shall issue his written ruling no later than one business day following the receipt of the recommendation.

A copy of the revised Rules and forms is attached*. In addition, this Administrative Letter and the new forms will also be available on the Bureau's website at:

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

Questions relating to this Administrative Letter should be directed to: Kim Naoroz, Manager, Managed Care Health Insurance Plan, External Appeals, Bureau of Insurance, P.O. Box 1157, Richmond, VA 23218, (804) 371-9115, or kim.naoroz@scc.virginia.gov.

/s/ Alfred W. Gross
Commissioner of Insurance

DEPARTMENT OF EDUCATION

Board of Education Comprehensive Plan: 2007-2012

The Board of Education seeks public comment on its Comprehensive Plan: 2007-2012, submitted pursuant to § 22.1-253.13:6 of the Code of Virginia. The document updates the objectives set forth on the Board of Education's previous plan, entitled Six-Year Plan: 2005-2010. Building upon the previous plan, the two-year update provides the framework for resources and policy development to guide the major priorities of the Board of Education for the coming several years.

The draft plan may be viewed on the Department of Education's website at www.doe.virginia.gov.

Comment will be received until August 31, 2007. Please send comment to: Mrs. Anne D. Wescott, Assistant Superintendent for Policy and Communications, P.O. Box 2120, Richmond, VA 23218-2120, FAX (804) 225-2524, or email policy@doe.virginia.gov.

Contact: Dr. Margaret N. Roberts, Office of Policy and Communications, P.O. Box 2120, 101 N. 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, or email margaret.roberts@doe.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Total Maximum Daily Loads (TMDL) - Accomack County and Northampton County

The Department of Environmental Quality (DEQ), Virginia Department of Health (VDH) and the Department of Conservation and Recreation seek written and oral comments

* See 23:22 VA.R. 3767-3771 July 9, 2007

General Notices/Errata

from interested persons on the development of total maximum daily loads (TMDL) for waters located in Accomack County and Northampton County, Virginia.

Messongo Creek, located in Accomack County, was identified in Virginia's 1998 303(d) TMDL Priority List and Report. Sufficient exceedances of Virginia's water quality standards for fecal coliform bacteria assessed segment VAT-C10E-05 as not supporting the recreation use.

Hungars Creek, located in Northampton County, was identified in Virginia's 1998 303(d) TMDL Priority List and Report for not supporting the shellfish growing water and recreation water uses. Segment VAT-C14E-11 is impaired due to violations of the state's water quality standard for fecal coliform bacteria in shellfish growing waters. The impaired segment is located in VDH Growing Area 86: Closure 136A. Sufficient exceedances of Virginia's water quality standards for fecal coliform bacteria assessed segment VAT-C14E-01 as not supporting the recreation use.

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.

The first public meeting is used to provide information and solicit comments from citizens and local government on preparation of the draft reports of the fecal coliform TMDL studies. The meeting will be held on July 30, 2007, from 7 p.m. to 9 p.m. at the Eastern Shore Agriculture Research and Extension Center, 33446 Research Dr., Painter, Virginia.

The public comment period will begin on July 30, 2007, and end on August 29, 2007. Questions or information requests should include the name, address, and telephone number of the person submitting the comments. Requests should be sent to Jennifer Howell, Department of Environmental Quality, 5636 Southern Blvd., Virginia Beach, VA 23262, telephone (757) 518-2111, FAX (757) 518-2003, or email jshowell@deq.virginia.gov.

Water Quality Improvement Study - Dan River Watershed in Halifax and Pittsylvania Counties

Purpose of notice: To announce a public meeting and seek public comment on a water quality improvement study by the Department of Environmental Quality for the Dan River watershed in Halifax and Pittsylvania Counties in Virginia.

Public meeting: Danville Community College, Wyatt Building, 1008 South Main Street, Room #113, Danville, Virginia, on Thursday, August 9, 2007, from 6:30 to 8:30 p.m.

Public comment period: August 9, 2007, to September 10, 2007.

Meeting description: This is a public meeting to discuss a study to restore water quality in stream and river segments in the Dan River watershed.

Description of study: Virginia agencies are working to identify sources of bacteria contamination in stream segments in the Dan River watershed in Central Virginia. This contamination exceeds water quality standards, thus prohibiting swimming and other forms of primary contact recreation. The contamination impairs or decreases the quality of the water.

The following is a list of the "impaired" waters, the length of the impaired segment, their location, and the reason for the impairment:

Dan River (42.8 miles), Pittsylvania County, total fecal coliform; Sandy River (7.21 miles), Pittsylvania County, total fecal coliform; Sandy Creek (9.17 miles), Pittsylvania County, total fecal coliform; Fall Creek (2.3 miles), City of Danville, total fecal coliform; Byrds Branch (2.98 miles), Halifax County, total fecal coliform; Double Creek (8.28 miles), Halifax and Pittsylvania Counties, total fecal coliform.

During the study, DEQ will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels to have to be reduced to the TMDL amount.

Contact for additional information: Amanda Gray, Virginia Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6227, FAX (434) 582-5125, or email abgray@deq.virginia.gov.

Restore Water Quality in the Smith River Watershed and the North and South Mayo Rivers

Public meeting: Henry County Administrative Building, Public Meeting Room 1 on Wednesday, August 8, 2007, from 6:30 p.m. to 8:30 p.m. Directions: From Route 220 take the Collinsville exit. At first stop light, take left onto King's Mountain Road. Administrative Building is approximately two miles on left at 3300 Kings Mountain Road, Martinsville, Virginia.

Purpose of notice: The Virginia Department of Environmental Quality announces a public meeting to discuss a study to restore water quality in the Smith River watershed and the North and South Mayo rivers.

Description of study: Virginia agencies are working to identify sources of bacterial pollution in the North and South Mayo rivers and bacterial pollution and biological impairment (general standard) in the Smith River watershed. The bacteria exceeds water quality standards, which decreases the suitability of the water for swimming, kayaking and other recreational activities involving direct contact with the water.

The general standard indicates the water quality is unable to support a natural aquatic community.

The following is a list of the "impaired" waters, the length of the impaired segment, their location and the reason for the impairment: North Mayo River, 22.46 miles, Henry, Patrick counties, bacteria; South Mayo River, 10.86 miles, Henry, Patrick counties, bacteria; Blackberry Creek, 14.82 miles, Henry, Patrick counties, bacteria; Marrowbone Creek, 4.33 miles, Henry County, bacteria; Leatherwood Creek, 8.34 miles, Henry County, bacteria; Smith River, 6.95 miles, Henry County, bacteria; Smith River, 13.77 miles, Henry County, Martinsville City, bacteria, general standard (benthic).

During the study, the state agencies will develop a total maximum daily load, or a TMDL, for the impaired waters. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality, contamination levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by email, fax or postal mail. Written comments should include the name, address and telephone number of the person commenting and be received by September 7, 2007. DEQ also accepts written and oral comments at the public meeting announced in this notice.

Contact for additional information: Mary Dail, Virginia Department of Environmental Quality (DEQ), West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6715, FAX (540) 562-6860, or email mrtdail@deq.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Notice of Periodic Review of Regulation

Pursuant to Executive Order 36 (2006), the Safety and Health Codes Board is conducting a periodic review and invites public comment on the following regulation.

16 VAC 25-10, Public Participation Guidelines.

The department will consider whether this existing regulation is essential to protecting public health, safety and welfare. The department welcomes specific comments on the performance and effectiveness of this regulation and also requests suggestions to improve the content and organization of the regulation to make it more understandable and useful.

The goals of this regulation are as follows:

1. To provide and publish a fair process for adopting regulations and gaining public participation in rule-making and public meetings.

2. To protect the public's health, safety, and welfare with the least possible cost and intrusiveness to citizens and businesses in the Commonwealth.

3. To ensure the public is informed of any new regulations or amendments to existing regulations and that the public has the opportunity to comment on the changes throughout the process.

Comments on this regulation are welcome and will be accepted until August 14, 2007. Comments may be mailed to Reba O'Connor, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, Virginia 23219, or emailed to reba.oconnor@doli.virginia.gov. Commenters should include full name and mailing address.

Regulations may be viewed online at the Virginia Regulatory Town Hall site located at <http://www.townhall.state.va.us>.

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 28, 2007. 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 Thirty (07)

Virginia's Instant Game Lottery 791; "Captain Cash Tripler" (effective 6/25/07)

Director's Order Number Thirty-One (07)

Virginia's Instant Game Lottery 793; "Welcome To Fabulous" (effective 6/25/07)

Director's Order Number Thirty-Two (07)

Virginia's Instant Game Lottery 790; "Double Take" (effective 6/25/07)

Director's Order Number Thirty-Three (07)

Virginia's Instant Game Lottery 792; "Xtreme Green" (effective 6/25/07)

STATE WATER CONTROL BOARD

Proposed Consent Special Order - Aqua Lake Holiday Utilities, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Frederick County, Virginia.

Public comment period: July 23, 2007, to August 23, 2007.

General Notices/Errata

Consent order description: The State Water Control Board proposes to issue a consent order to Aqua Lake Holiday Utilities, Inc. – the Summit STP to address alleged violations of the permit. The location of the facility where the alleged violations occurred is located west of Winchester near Cross Junction, Frederick County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven W. Hetrick, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, Harrisonburg, VA 22801-9519, telephone (540) 574-7833, FAX (540) 574-7878, or email swhetrick@deq.virginia.gov.

Proposed Consent Special Order - Mr. J.E. Liesfeld, Jr.

Purpose of notice: To seek public comment on a proposed consent order from the Department of Environmental Quality for Gillies Creek Recycling Center in Henrico County, Virginia.

Public comment period: July 23, 2007, to August 22, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Mr. J.E. Liesfeld, Jr., to address alleged violations of VWPP regulations. The location of the property where the violation occurred is at 4200 Masonic Lane, Henrico County, Virginia. The consent order describes a settlement to complete the reissuance application for the VWP permit; complete creation of the wetland mitigation sites; submit the required monitoring reports and pay a civil charge to address wetland impacts that occurred at the property.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5079, FAX (804) 527-5106, or email ecakers@deq.virginia.gov.

Proposed Consent Order - Lexington Golf and Country, Club, Inc.

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Rockbridge County, Virginia.

Public comment period: July 24, 2007, to August 25, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Lexington Golf and Country, Club, Inc. to address alleged violations of the laws and regulations. The location of the facility where the alleged violations occurred is in Lexington, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven W. Hetrick, Department of Environmental Quality, Valley Regional Office, Post Office Box 3000, Harrisonburg, VA 22801-9519, telephone (540) 574-7833, FAX (540) 574-7844, or email swhetrick@deq.virginia.gov.

Proposed Consent Special Order - Orange Partners, LLC – Kernstown Commons Commercial Development Project

Purpose of notice: To invite citizens to comment on a proposed consent order for a facility in Frederick County, Virginia.

Public comment period: July 23, 2007, to August 23, 2007.

Consent order description: The State Water Control Board proposes to issue a consent order to Orange Partners, LLC – Kernstown Commons Commercial Development Project to address alleged violations of laws and regulations. The location of the facility where the alleged violations occurred is located south of Winchester near Kernstown, Frederick County, Virginia. The consent order describes a settlement to resolve these violations.

How to comment: DEQ accepts comments from the public by email, fax or postal mail. All comments must include the name, address and telephone number of the person commenting and be received by DEQ within the comment period. The public may review the proposed consent order at the DEQ office named below or on the DEQ website at www.deq.virginia.gov.

Contact for public comments, document requests and additional information: Steven W. Hetrick, Department of

Environmental Quality, Valley Regional Office, Post Office
Box 3000, Harrisonburg, VA 22801-9519, telephone (540)
574-7833, FAX (540) 574-7844, or email
swhetrick@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Elimination of the Calendar of Events Section

Effective July 1, 2007, the Calendar of Events section will no longer be published in the Virginia Register of Regulations. Chapter 300 of the 2007 Acts of Assembly amended the Administrative Process Act by eliminating the requirement that all state agency meeting notices be published in the Virginia Register. In lieu of publication in the Virginia Register, the Virginia Freedom of Information Act was amended to require that agencies post meeting notices on the agency's website and on the Commonwealth Calendar maintained by the Virginia Information Technologies Agency. To access the Commonwealth Calendar, please visit the Commonwealth of Virginia's homepage at www.virginia.gov and click on the calendar on the right side of the screen. Public hearing information will still be published in the Register and can be found with the corresponding proposed regulation.

Notice to State Agencies

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

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

ERRATA

STATE COUNCIL OF HIGHER EDUCATION

Title of Regulation: 8 VAC 40-140. Virginia Vocational Incentive Scholarship Program for Shipyard Workers Regulations.

Publication: 23:22 VA.R. 3704-3705 July 9, 2007.

Correction to Final Regulation:

Page 3704, 8 VAC 40-140-60 1, should read

"I. Continue full-time employment as a shipyard worker until his successful [~~competition~~ completion]"

Page 3705, 8 VAC 40-140-80 I, line 13, should read

"I. During the time a scholar qualifies for any of the exceptions specified in subsection G [~~of~~]"

VA.R. Doc. No R07-273; Filed June 13, 2007, 9:11 a.m.

