



Virginia Register of Regulations

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TABLE OF CONTENTS

Register Information Page	1645
Publication Schedule and Deadlines	1646
Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed ..	1647
Petitions for Rulemaking	1677
Notices of Intended Regulatory Action	1678
Regulations	1680
4VAC20-1180. Pertaining to Fishing Guides (Final)	1680
9VAC20-10. Public Participation Guidelines (Final)	1681
9VAC20-11. Public Participation Guidelines (Final)	1681
9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (Proposed)	1685
10VAC5-200. Payday Lending (Proposed)	1701
12VAC5-230. State Medical Facilities Plan (Final)	1706
12VAC5-240. General Acute Care Services (Final)	1706
12VAC5-250. Perinatal Services (Final)	1706
12VAC5-260. Cardiac Services (Final)	1706
12VAC5-270. General Surgical Services (Final)	1706
12VAC5-280. Organ Transplantation Services (Final)	1706
12VAC5-290. Psychiatric and Substance Abuse Treatment Services (Final)	1706
12VAC5-300. Mental Retardation Services (Final)	1706
12VAC5-310. Medical Rehabilitation Services (Final)	1706
12VAC5-320. Diagnostic Imaging Services (Final)	1706
12VAC5-330. Lithotripsy Services (Final)	1706
12VAC5-340. Radiation Therapy Services (Final)	1706
12VAC5-350. Miscellaneous Capital Expenditures (Final)	1707
12VAC5-360. Nursing Home Services (Final)	1707
13VAC10-20. Rules and Regulations for Multi-Family Housing Developments (Final)	1742
18VAC160-20. Board for Waterworks and Wastewater Works Operators Regulations (Proposed)	1744
20VAC5-200. Public Utility Accounting (Final)	1765
20VAC5-201. Rules Governing Utility Rate Increase Applications, Annual Informational Filings, Optional Performance-Based Regulation Applications, Biennial Review (Final)	1765
20VAC5-403. Rules Governing Small Investor-Owned Telephone Utilities (Final)	1765
20VAC5-427. Rules for Local Exchange Telecommunications Company Service Quality Standards (Reproposed)	1816
20VAC5-428. Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality (Reproposed)	1816
General Notices/Errata	1823

THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

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

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

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

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

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

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

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

PUBLICATION SCHEDULE AND DEADLINES

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

January 2009 through November 2009

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
INDEX 1 Volume 25		
January 2009		
25:9	December 16, 2008 (Tuesday)	January 5, 2009
25:10	December 30, 2008 (Tuesday)	January 19, 2009
25:11	January 14, 2009	February 2, 2009
25:12	January 28, 2009	February 16, 2009
25:13	February 11, 2009	March 2, 2009
25:14	February 25, 2009	March 16, 2009
INDEX 2 Volume 25		
April 2009		
25:15	March 11, 2009	March 30, 2009
25:16	March 25, 2009	April 13, 2009
25:17	April 8, 2009	April 27, 2009
25:18	April 22, 2009	May 11, 2009
25:19	May 6, 2009	May 25, 2009
25:20	May 20, 2009	June 8, 2009
INDEX 3 Volume 25		
July 2009		
25:21	June 3, 2009	June 22, 2009
25:22	June 17, 2009	July 6, 2009
25:23	July 1, 2009	July 20, 2009
25:24	July 15, 2009	August 3, 2009
25:25	July 29, 2009	August 17, 2009
25:26	August 12, 2009	August 31, 2009
FINAL INDEX Volume 25		
October 2009		
26:1	August 26, 2009	September 14, 2009
26:2	September 9, 2009	September 28, 2009
26:3	September 23, 2009	October 12, 2009
26:4	October 7, 2009	October 26, 2009
26:5	October 21, 2009	November 9, 2009

*Filing deadlines are Wednesdays unless otherwise specified.

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

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

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 1. Administration			
1 VAC 17-10-10 through 1 VAC 17-10-90	Repealed	25:8 VA.R. 1484	1/21/09
1 VAC 17-11-10 through 1 VAC 17-11-110	Added	25:8 VA.R. 1484-1487	1/21/09
1 VAC 30-10-10 through 1 VAC 30-10-70	Repealed	25:8 VA.R. 1487	1/21/09
1 VAC 30-11-10 through 1 VAC 30-11-110	Added	25:8 VA.R. 1488-1490	1/21/09
1 VAC 30-45-10 through 1 VAC 30-45-860	Added	25:7 VA.R. 1409-1413	1/1/09
1 VAC 30-46-10 through 1 VAC 30-46-210	Added	25:7 VA.R. 1413-1417	1/1/09
1 VAC 50-10-60 through 1 VAC 50-10-150	Repealed	25:2 VA.R. 119	10/29/08
1 VAC 50-11-10 through 1 VAC 50-11-110	Added	25:2 VA.R. 119-122	10/29/08
1 VAC 55-10-10 through 1 VAC 55-10-50	Repealed	25:2 VA.R. 122	10/29/08
1 VAC 55-11-10 through 1 VAC 55-11-110	Added	25:2 VA.R. 122-125	10/29/08
1 VAC 75-10-10 through 1 VAC 75-10-40	Repealed	24:25 VA.R. 3523	9/17/08
1 VAC 75-11-10 through 1 VAC 75-11-110	Added	24:25 VA.R. 3523-3526	9/17/08
Title 2. Agriculture			
2 VAC 5-10-10 through 2 VAC 5-10-70	Repealed	25:3 VA.R. 342	11/12/08
2 VAC 5-11-10 through 2 VAC 5-11-110	Added	25:3 VA.R. 343-345	11/12/08
2 VAC 5-30-10	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-30-20	Amended	24:17 VA.R. 2318	6/12/08
2 VAC 5-50-20	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-70	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-100	Amended	24:17 VA.R. 2320	6/12/08
2 VAC 5-50-110	Amended	24:17 VA.R. 2321	6/12/08
2 VAC 5-90-30	Amended	24:17 VA.R. 2322	6/12/08
2 VAC 5-150-10	Amended	24:17 VA.R. 2323	6/12/08
2 VAC 5-180-20	Amended	24:17 VA.R. 2326	6/12/08
2 VAC 5-180-30	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-50	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-60	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-80	Amended	24:17 VA.R. 2327	6/12/08
2 VAC 5-180-120	Amended	24:17 VA.R. 2328	6/12/08
2 VAC 5-206-10 through 2 VAC 5-206-50	Added	24:25 VA.R. 3527-3531	10/3/08
2 VAC 5-210-30	Amended	24:9 VA.R. 1096	12/11/07
2 VAC 5-210-41	Amended	24:9 VA.R. 1097	12/11/07
2 VAC 5-330-30	Amended	25:2 VA.R. 126	10/15/08
2 VAC 5-335-10 through 2 VAC 5-335-130	Added	25:2 VA.R. 126-129	10/15/08
2 VAC 5-390-180	Amended	24:15 VA.R. 2023	3/11/08
2 VAC 5-400-5	Added	24:17 VA.R. 2330	6/12/08
2 VAC 5-420-30	Amended	24:20 VA.R. 2838	5/21/08
2 VAC 5-420-80	Amended	24:20 VA.R. 2840	5/21/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 5-501-80	Amended	24:17 VA.R. 2332	6/12/08
2 VAC 5-501-100	Amended	24:17 VA.R. 2336	6/12/08
2 VAC 5-510-10	Amended	24:17 VA.R. 2340	6/12/08
2 VAC 5-510-50	Amended	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-60	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-70	Repealed	24:17 VA.R. 2341	6/12/08
2 VAC 5-510-80	Repealed	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-90	Amended	24:17 VA.R. 2342	6/12/08
2 VAC 5-510-100	Repealed	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-110	Amended	24:17 VA.R. 2344	6/12/08
2 VAC 5-510-120	Repealed	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-130	Amended	24:17 VA.R. 2345	6/12/08
2 VAC 5-510-140	Repealed	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-150	Amended	24:17 VA.R. 2347	6/12/08
2 VAC 5-510-160	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-170	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-180	Repealed	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-190	Amended	24:17 VA.R. 2348	6/12/08
2 VAC 5-510-200	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-210	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-220	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-230	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-240	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-250	Repealed	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-260	Amended	24:17 VA.R. 2349	6/12/08
2 VAC 5-510-270	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-290	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-300	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-310	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-320	Repealed	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-330	Amended	24:17 VA.R. 2350	6/12/08
2 VAC 5-510-340	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-350	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-360	Repealed	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-390	Amended	24:17 VA.R. 2351	6/12/08
2 VAC 5-510-400	Repealed	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-410	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-420	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-500	Amended	24:17 VA.R. 2352	6/12/08
2 VAC 5-510-510	Amended	24:17 VA.R. 2353	6/12/08
2 VAC 5-531-50	Amended	24:16 VA.R. 2235	5/29/08
2 VAC 5-531-140	Amended	24:16 VA.R. 2241	5/29/08
2 VAC 15-11-10 through 2 VAC 15-11-120	Repealed	25:4 VA.R. 576	11/26/08
2 VAC 15-12-10 through 2 VAC 15-12-110	Added	25:4 VA.R. 577-579	11/26/08
2 VAC 15-20-81	Amended	24:16 VA.R. 2242	4/14/08
2 VAC 20-10-10 through 2 VAC 20-10-120	Repealed	25:5 VA.R. 792	12/10/08
2 VAC 20-10-80	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-10-100	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-10-110	Amended	24:24 VA.R. 3331	9/18/08
2 VAC 20-11-10 through 2 VAC 20-11-110	Added	25:5 VA.R. 792-795	12/10/08
2 VAC 20-20-70	Amended	24:17 VA.R. 2355	6/12/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
2 VAC 20-20-130	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-20-210	Amended	24:17 VA.R. 2355	6/12/08
2 VAC 20-40-50	Amended	24:17 VA.R. 2357	6/12/08
2 VAC 20-51-10 through 2 VAC 20-51-50	Amended	25:3 VA.R. 346-350	12/1/08
2 VAC 20-51-70	Amended	25:3 VA.R. 350	12/1/08
2 VAC 20-51-90	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-100	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-160	Amended	25:3 VA.R. 351	12/1/08
2 VAC 20-51-170	Amended	25:3 VA.R. 352	12/1/08
2 VAC 20-51-200	Amended	25:3 VA.R. 352	12/1/08
2 VAC 20-51-210	Amended	25:3 VA.R. 352	12/1/08
Title 3. Alcoholic Beverages			
3 VAC 5-10-480	Repealed	25:6 VA.R. 1173	12/24/08
3 VAC 5-11-10 through 3 VAC 5-11-110	Added	25:6 VA.R. 1175-1178	12/24/08
3 VAC 5-50-140 emer	Amended	24:11 VA.R. 1344	1/9/08-1/8/09
3 VAC 5-50-145 emer	Added	24:11 VA.R. 1345	1/9/08-1/8/09
3 VAC 5-70-220	Amended	24:14 VA.R. 1891	5/1/08
3 VAC 5-70-225 emer	Added	24:10 VA.R. 1257	1/2/08-1/1/09
Title 4. Conservation and Natural Resources			
4 VAC 3-10-10	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-10-20	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-10-30	Repealed	25:2 VA.R. 129	10/29/08
4 VAC 3-11-10 through 4 VAC 3-11-110	Added	25:2 VA.R. 130-132	10/29/08
4 VAC 5-10-10	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-10-20	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-10-30	Repealed	25:2 VA.R. 132	10/29/08
4 VAC 5-11-10 through 4 VAC 5-11-110	Added	25:2 VA.R. 133-136	10/29/08
4 VAC 5-36-50	Amended	25:6 VA.R. 1178	1/1/09
4 VAC 5-36-60	Amended	25:6 VA.R. 1183	1/1/09
4 VAC 5-36-70	Amended	25:6 VA.R. 1184	1/1/09
4 VAC 5-36-90	Amended	25:6 VA.R. 1185	1/1/09
4 VAC 5-36-100	Amended	25:6 VA.R. 1187	1/1/09
4 VAC 5-36-110	Amended	25:6 VA.R. 1191	1/1/09
4 VAC 5-36-115	Added	25:6 VA.R. 1192	1/1/09
4 VAC 5-36-120	Amended	25:6 VA.R. 1192	1/1/09
4 VAC 5-36-140	Amended	25:6 VA.R. 1193	1/1/09
4 VAC 5-36-150	Amended	25:6 VA.R. 1195	1/1/09
4 VAC 5-36-180	Amended	25:6 VA.R. 1198	1/1/09
4 VAC 5-36-200	Amended	25:6 VA.R. 1199	1/1/09
4 VAC 5-36-210	Amended	25:6 VA.R. 1204	1/1/09
4 VAC 5-50-10 through 4 VAC 5-50-170	Repealed	24:17 VA.R. 2357	5/28/08
4 VAC 10-10-10 through 4 VAC 10-10-30	Repealed	25:6 VA.R. 1208	12/24/08
4 VAC 10-11-10 through 4 VAC 10-11-110	Added	25:6 VA.R. 1209-1212	12/24/08
4 VAC 15-20-50	Amended	24:10 VA.R. 1258	1/1/08
4 VAC 15-20-130	Amended	24:10 VA.R. 1259	1/1/08
4 VAC 15-20-200	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-20-210	Amended	24:10 VA.R. 1261	1/1/08
4 VAC 15-30-5	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-30-40	Amended	24:10 VA.R. 1262	1/1/08
4 VAC 15-40-30	Amended	24:23 VA.R. 3108	7/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 15-40-70	Amended	24:23 VA.R. 3108	7/1/08
4 VAC 15-40-190	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-40-210	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-40-220	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-20	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-25	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-71	Amended	24:24 VA.R. 3332	7/8/08
4 VAC 15-50-81	Amended	24:23 VA.R. 3109	7/1/08
4 VAC 15-50-91	Amended	24:23 VA.R. 3110	7/1/08
4 VAC 15-70-50	Amended	24:23 VA.R. 3111	7/1/08
4 VAC 15-70-70	Added	24:23 VA.R. 3111	7/1/08
4 VAC 15-90-22	Amended	24:23 VA.R. 3111	7/1/08
4 VAC 15-90-70	Amended	24:23 VA.R. 3112	7/1/08
4 VAC 15-90-80	Amended	24:23 VA.R. 3112	7/1/08
4 VAC 15-90-80	Amended	24:24 VA.R. 3332	7/8/08
4 VAC 15-90-90	Amended	24:23 VA.R. 3113	7/1/08
4 VAC 15-90-91	Amended	24:23 VA.R. 3114	7/1/08
4 VAC 15-110-10	Amended	24:23 VA.R. 3117	7/1/08
4 VAC 15-110-75	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-11	Added	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-20	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-31	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-40	Amended	24:23 VA.R. 3118	7/1/08
4 VAC 15-240-50	Amended	24:23 VA.R. 3119	7/1/08
4 VAC 15-240-51	Added	24:23 VA.R. 3119	7/1/08
4 VAC 15-260-140	Amended	24:24 VA.R. 3333	7/8/08
4 VAC 15-270-50	Repealed	24:24 VA.R. 3334	7/8/08
4 VAC 15-320-25	Amended	24:10 VA.R. 1265	1/1/08
4 VAC 15-330-30	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-100	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-120	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-160	Amended	24:10 VA.R. 1272	1/1/08
4 VAC 15-330-171	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-330-200	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-10	Amended	24:10 VA.R. 1273	1/1/08
4 VAC 15-340-30	Amended	24:10 VA.R. 1274	1/1/08
4 VAC 15-350-20	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-30	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-60	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-350-70	Amended	24:10 VA.R. 1275	1/1/08
4 VAC 15-360-10	Amended	24:10 VA.R. 1276	1/1/08
4 VAC 15-410-10 through 4 VAC 15-410-160	Added	24:23 VA.R. 3119-3125	7/1/08
4 VAC 20-20-50	Amended	25:6 VA.R. 1212	11/1/08
4 VAC 20-40-10 through 4 VAC 20-40-40	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-10	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-20	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-90-30	Repealed	24:19 VA.R. 2749	4/30/08
4 VAC 20-140-10	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-20	Amended	24:21 VA.R. 2917	3/17/09
4 VAC 20-140-25	Added	24:21 VA.R. 2917	3/17/09
4 VAC 20-150-30	Amended	24:10 VA.R. 1277	1/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-252-55	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-90	Amended	25:6 VA.R. 1213	11/1/08
4 VAC 20-252-100	Amended	25:6 VA.R. 1213	11/1/08
4 VAC 20-252-120	Amended	24:10 VA.R. 1278	1/1/08
4 VAC 20-252-150	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-160	Amended	24:10 VA.R. 1279	1/1/08
4 VAC 20-252-230	Amended	24:10 VA.R. 1281	1/1/08
4 VAC 20-260-35 emer	Amended	25:3 VA.R. 353	10/1/08-10/31/08
4 VAC 20-260-35	Amended	25:6 VA.R. 1213	11/1/08
4 VAC 20-260-40 emer	Amended	25:3 VA.R. 353	10/1/08-10/31/08
4 VAC 20-260-40	Amended	25:6 VA.R. 1213	11/1/08
4 VAC 20-270-10 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-10	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-30	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-40	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50	Amended	24:19 VA.R. 2750	4/30/08
4 VAC 20-270-50 emer	Amended	24:19 VA.R. 2751	5/1/08-5/31/08
4 VAC 20-270-50	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-270-55	Amended	24:15 VA.R. 2023	3/1/08
4 VAC 20-270-55	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-56	Amended	24:19 VA.R. 2751	4/30/08
4 VAC 20-270-58	Added	24:19 VA.R. 2751	4/30/08
4 VAC 20-320-50	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-450-30	Amended	24:21 VA.R. 2918	6/1/08
4 VAC 20-530-20	Amended	24:12 VA.R. 1456	2/1/08
4 VAC 20-530-31	Amended	24:13 VA.R. 1735	2/5/08
4 VAC 20-530-32	Repealed	24:12 VA.R. 1457	2/1/08
4 VAC 20-610-20	Amended	24:8 VA.R. 959	12/1/07
4 VAC 20-610-25	Added	24:8 VA.R. 959	12/1/07
4 VAC 20-610-30	Amended	24:8 VA.R. 960	12/1/07
4 VAC 20-610-30	Amended	24:15 VA.R. 2024	3/1/08
4 VAC 20-610-50	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-610-60	Amended	24:8 VA.R. 961	12/1/07
4 VAC 20-620-20	Amended	25:3 VA.R. 354	10/1/08
4 VAC 20-620-30	Amended	24:10 VA.R. 1281	12/27/07
4 VAC 20-620-30	Amended	25:3 VA.R. 354	10/1/08
4 VAC 20-620-40 emer	Amended	24:8 VA.R. 962	11/28/07-12/27/07
4 VAC 20-620-40	Amended	24:10 VA.R. 1282	12/27/07
4 VAC 20-620-40	Amended	25:3 VA.R. 355	10/1/08
4 VAC 20-620-50	Amended	24:15 VA.R. 2025	3/1/08
4 VAC 20-620-70	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-670-20	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-25	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-30	Amended	24:19 VA.R. 2752	4/30/08
4 VAC 20-670-40	Amended	24:19 VA.R. 2753	4/30/08
4 VAC 20-700-10 emer	Amended	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15 emer	Added	24:19 VA.R. 2753	5/1/08-5/31/08
4 VAC 20-700-15	Added	24:21 VA.R. 2918	6/1/08
4 VAC 20-700-20	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-700-20 emer	Amended	24:19 VA.R. 2754	5/1/08-5/31/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-700-20	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-720-20	Amended	25:3 VA.R. 357	10/1/08
4 VAC 20-720-40	Amended	24:12 VA.R. 1457	2/1/08
4 VAC 20-720-40	Amended	25:3 VA.R. 359	10/1/08
4 VAC 20-720-50	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-50	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-60	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-60	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-70	Amended	25:3 VA.R. 360	10/1/08
4 VAC 20-720-75	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-80	Amended	24:12 VA.R. 1458	2/1/08
4 VAC 20-720-80	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-95	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-100	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-720-106 emer	Amended	25:1 VA.R. 24	9/1/08-9/30/08
4 VAC 20-720-106	Amended	25:3 VA.R. 361	10/1/08
4 VAC 20-750-10	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-10	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-30	Amended	24:15 VA.R. 2026	3/1/08
4 VAC 20-750-30	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-40	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-750-50	Repealed	24:19 VA.R. 2754	4/30/08
4 VAC 20-751-10 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08
4 VAC 20-751-15	Added	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-15 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08
4 VAC 20-751-20	Amended	24:15 VA.R. 2027	3/1/08
4 VAC 20-751-20 emer	Amended	25:3 VA.R. 362	9/29/08-10/28/08
4 VAC 20-751-20	Amended	25:6 VA.R. 1214	10/29/08
4 VAC 20-752-20	Amended	24:19 VA.R. 2754	4/30/08
4 VAC 20-752-30	Amended	24:16 VA.R. 2246	4/1/08
4 VAC 20-752-30	Amended	24:19 VA.R. 2755	4/30/08
4 VAC 20-880-10 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-10	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-880-20 emer	Amended	24:19 VA.R. 2755	5/1/08-5/31/08
4 VAC 20-880-20	Amended	24:19 VA.R. 2756	4/30/08
4 VAC 20-880-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-880-30	Amended	24:19 VA.R. 2757	4/30/08
4 VAC 20-880-30	Amended	24:21 VA.R. 2919	6/1/08
4 VAC 20-910-45	Amended	24:25 VA.R. 3537	8/1/08
4 VAC 20-910-45	Amended	25:6 VA.R. 1214	11/1/08
4 VAC 20-950-47	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-47	Amended	25:8 VA.R. 1491	1/1/09
4 VAC 20-950-48	Amended	24:15 VA.R. 2028	3/1/08
4 VAC 20-950-48	Amended	25:8 VA.R. 1491	1/1/09
4 VAC 20-950-48.1	Amended	24:15 VA.R. 2029	3/1/08
4 VAC 20-960-45	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-960-47	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	24:8 VA.R. 964	1/1/08
4 VAC 20-1040-20	Amended	25:8 VA.R. 1492	11/30/08
4 VAC 20-1040-25	Added	25:8 VA.R. 1493	11/30/08
4 VAC 20-1040-35	Added	24:12 VA.R. 1459	2/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
4 VAC 20-1090-10 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:8 VA.R. 965	12/1/07
4 VAC 20-1090-30 emer	Amended	24:19 VA.R. 2757	5/1/08-5/31/08
4 VAC 20-1090-30	Amended	24:19 VA.R. 2760	4/30/08
4 VAC 20-1090-30	Amended	24:21 VA.R. 2920	6/1/08
4 VAC 20-1130-10 through 4 VAC 20-1130-70	Added	24:8 VA.R. 968-970	12/1/07
4 VAC 20-1140-10	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-20	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1140-30	Added	24:19 VA.R. 2763	4/30/08
4 VAC 20-1150-10	Added	24:25 VA.R. 3538	8/1/08
4 VAC 20-1150-20	Added	24:25 VA.R. 3538	8/1/08
4 VAC 20-1170-10	Added	25:6 VA.R. 1215	12/1/08
4 VAC 20-1170-20	Added	25:6 VA.R. 1215	12/1/08
4 VAC 25-10-10 through 4 VAC 25-10-90	Repealed	25:5 VA.R. 795	12/25/08
4 VAC 25-11-10 through 4 VAC 25-11-120	Added	25:5 VA.R. 797-800	12/25/08
4 VAC 25-130 (Forms)	Amended	24:11 VA.R. 1424	--
4 VAC 25-150-90	Amended	24:17 VA.R. 2359	6/12/08
4 VAC 50-10-10	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-10-20	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-10-30	Repealed	25:2 VA.R. 137	10/29/08
4 VAC 50-11-10 through 4 VAC 50-11-110	Added	25:2 VA.R. 138-141	10/29/08
4 VAC 50-20-20 through 4 VAC 50-20-90	Amended	24:25 VA.R. 3539-3554	9/26/08
4 VAC 50-20-51	Added	24:25 VA.R. 3544	9/26/08
4 VAC 50-20-52	Added	24:25 VA.R. 3545	9/26/08
4 VAC 50-20-54	Added	24:25 VA.R. 3545	9/26/08
4 VAC 50-20-58	Added	24:25 VA.R. 3546	9/26/08
4 VAC 50-20-59	Added	24:25 VA.R. 3546	9/26/08
4 VAC 50-20-100 through 4 VAC 50-20-140	Repealed	24:25 VA.R. 3554-3558	9/26/08
4 VAC 50-20-105	Added	24:25 VA.R. 3554	9/26/08
4 VAC 50-20-125	Added	24:25 VA.R. 3557	9/26/08
4 VAC 50-20-150 through 4 VAC 50-20-240	Amended	24:25 VA.R. 3558-3563	9/26/08
4 VAC 50-20-155	Added	24:25 VA.R. 3558	9/26/08
4 VAC 50-20-165	Added	24:25 VA.R. 3559	9/26/08
4 VAC 50-20-175	Added	24:25 VA.R. 3560	9/26/08
4 VAC 50-20-177	Added	24:25 VA.R. 3561	9/26/08
4 VAC 50-20-250	Repealed	24:25 VA.R. 3564	9/26/08
4 VAC 50-20-260 through 4 VAC 50-20-320	Amended	24:25 VA.R. 3564-3565	9/26/08
4 VAC 50-20-330 through 4 VAC 50-20-400	Added	24:25 VA.R. 3565-3567	9/26/08
4 VAC 50-60-10	Amended	24:20 VA.R. 2842	7/9/08
4 VAC 50-60-1200	Amended	24:20 VA.R. 2852	7/9/08
4 VAC 50-60-1210	Amended	24:20 VA.R. 2853	7/9/08
4 VAC 50-60-1220	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1230	Amended	24:20 VA.R. 2854	7/9/08
4 VAC 50-60-1240	Amended	24:20 VA.R. 2856	7/9/08
Title 5. Corporations			
5 VAC 5-20-20	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-140	Amended	24:11 VA.R. 1347	2/15/08
5 VAC 5-20-150	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-170	Amended	24:11 VA.R. 1348	2/15/08
5 VAC 5-20-240	Amended	24:11 VA.R. 1349	2/15/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 6. Criminal Justice and Corrections			
6 VAC 15-10-10 through 6 VAC 15-10-100	Repealed	25:3 VA.R. 363	11/15/08
6 VAC 15-11-10 through 6 VAC 15-11-110	Added	25:3 VA.R. 363-366	11/15/08
6 VAC 15-31-320	Amended	24:25 VA.R. 3568	9/18/08
6 VAC 15-61-10 through 6 VAC 15-61-300	Repealed	24:8 VA.R. 970	1/24/08
6 VAC 15-62-10 through 6 VAC 15-62-120	Added	24:8 VA.R. 970-979	1/24/08
6 VAC 15-62-110	Amended	24:13 VA.R. 1736	3/3/08
6 VAC 15-62 (Forms)	Amended	24:12 VA.R. 1523	--
6 VAC 15-70-10	Amended	25:3 VA.R. 367	11/15/08
6 VAC 15-70-40 through 6 VAC 15-70-130	Amended	25:3 VA.R. 367-372	11/15/08
6 VAC 15-70-160	Amended	25:3 VA.R. 372	11/15/08
6 VAC 20-80-10 through 6 VAC 20-80-90	Amended	24:23 VA.R. 3127-3132	9/1/08
6 VAC 20-80-100	Repealed	24:23 VA.R. 3132	9/1/08
6 VAC 20-80-110	Repealed	24:23 VA.R. 3132	9/1/08
6 VAC 20-160-10	Amended	25:2 VA.R. 141	10/29/08
6 VAC 20-160-20	Amended	25:2 VA.R. 142	10/29/08
6 VAC 20-160-30	Amended	25:2 VA.R. 142	10/29/08
6 VAC 20-160-40	Amended	25:2 VA.R. 143	10/29/08
6 VAC 20-160-60	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-70	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-80	Amended	25:2 VA.R. 144	10/29/08
6 VAC 20-160-100	Amended	25:2 VA.R. 145	10/29/08
6 VAC 20-160-120	Amended	25:2 VA.R. 145	10/29/08
6 VAC 20-171-10 emer	Amended	24:23 VA.R. 3134	7/1/08 - 6/30/09
6 VAC 20-171-50 emer	Amended	24:23 VA.R. 3137	7/1/08 - 6/30/09
6 VAC 20-171-120 emer	Amended	24:23 VA.R. 3138	7/1/08 - 6/30/09
6 VAC 20-171-230 emer	Amended	24:23 VA.R. 3139	7/1/08 - 6/30/09
6 VAC 20-171-320 emer	Amended	24:23 VA.R. 3141	7/1/08 - 6/30/09
6 VAC 20-171-350 emer	Amended	24:23 VA.R. 3142	7/1/08 - 6/30/09
6 VAC 20-171-360 emer	Amended	24:23 VA.R. 3145	7/1/08 - 6/30/09
6 VAC 20-250-10 through 6 VAC 20-250-380	Added	24:23 VA.R. 3146-3161	8/20/08
6 VAC 35-10-10 through 6 VAC 35-10-150	Repealed	24:25 VA.R. 3573	9/17/08
6 VAC 35-11-10 through 6 VAC 35-11-110	Added	24:25 VA.R. 3574-3576	9/17/08
6 VAC 35-20-37 emer	Amended	25:3 VA.R. 373	8/1/07-1/31/09
6 VAC 35-20-37	Amended	25:4 VA.R. 626	12/12/08
6 VAC 35-51-10 through 6 VAC 35-51-1100	Added	24:25 VA.R. 3577-3610	9/17/08
6 VAC 35-140-46	Added	25:3 VA.R. 376	12/12/08
6 VAC 40-10-10 through 6 VAC 40-10-90	Repealed	25:2 VA.R. 146	10/30/08
6 VAC 40-11-10 through 6 VAC 40-110	Added	25:2 VA.R. 147-149	10/30/08
6 VAC 40-20-30	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-120	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-130	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-20-160	Amended	24:26 VA.R. 3718	10/16/08
6 VAC 40-50-10 through 6 VAC 40-50-80	Added	24:9 VA.R. 1103-1104	2/6/08
Title 7. Economic Development			
7 VAC 10-20-10 through 7 VAC 10-20-350	Repealed	24:26 VA.R. 3719	9/1/08
7 VAC 10-21-10 through 7 VAC 10-21-610	Added	24:26 VA.R. 3719-3729	9/1/08
Title 8. Education			
8 VAC 20-650-30	Amended	24:21 VA.R. 2936	9/15/08
8 VAC 35-60-20	Amended	25:5 VA.R. 800	11/10/08
8 VAC 40-10-10 through 8 VAC 40-10-90	Repealed	25:3 VA.R. 376	1/1/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 40-11-10 through 8 VAC 40-11-110	Added	25:3 VA.R. 377-379	1/1/09
Title 9. Environment			
9 VAC 5-5-10 through 9 VAC 5-5-110	Added	25:5 VA.R. 801-804	1/1/09
9 VAC 5-80-5	Added	25:6 VA.R. 1231	12/31/08
9 VAC 5-80-15	Added	25:6 VA.R. 1234	12/31/08
9 VAC 5-80-25	Added	25:6 VA.R. 1234	12/31/08
9 VAC 5-80-35	Added	25:6 VA.R. 1235	12/31/08
9 VAC 5-80-150	Amended	25:6 VA.R. 1237	12/31/08
9 VAC 5-80-230	Amended	25:6 VA.R. 1237	12/31/08
9 VAC 5-80-270	Amended	25:6 VA.R. 1238	12/31/08
9 VAC 5-80-510	Amended	25:6 VA.R. 1239	12/31/08
9 VAC 5-80-590	Amended	25:6 VA.R. 1241	12/31/08
9 VAC 5-80-670	Amended	25:6 VA.R. 1241	12/31/08
9 VAC 5-80-670	Erratum	25:8 VA.R. 1644	--
9 VAC 5-80-860	Amended	25:6 VA.R. 1243	12/31/08
9 VAC 5-80-990	Amended	25:6 VA.R. 1243	12/31/08
9 VAC 5-80-1020	Amended	25:6 VA.R. 1244	12/31/08
9 VAC 5-80-1100	Amended	25:6 VA.R. 1258	12/31/08
9 VAC 5-80-1110	Amended	25:6 VA.R. 1259	12/31/08
9 VAC 5-80-1160	Amended	25:6 VA.R. 1244	12/31/08
9 VAC 5-80-1170	Amended	25:6 VA.R. 1245	12/31/08
9 VAC 5-80-1290	Amended	25:6 VA.R. 1246	12/31/08
9 VAC 5-80-1320	Amended	25:6 VA.R. 1264	12/31/08
9 VAC 5-80-1450	Amended	25:6 VA.R. 1247	12/31/08
9 VAC 5-80-1450	Erratum	25:8 VA.R. 1644	--
9 VAC 5-80-1460	Amended	25:6 VA.R. 1248	12/31/08
9 VAC 5-80-1615	Amended	25:6 VA.R. 1218	12/31/08
9 VAC 5-80-1695	Amended	25:6 VA.R. 1229	12/31/08
9 VAC 5-80-1765	Amended	25:6 VA.R. 1249	12/31/08
9 VAC 5-80-1773	Added	25:6 VA.R. 1251	12/31/08
9 VAC 5-80-1775	Amended	25:6 VA.R. 1251	12/31/08
9 VAC 5-80-1955	Amended	25:6 VA.R. 1253	12/31/08
9 VAC 5-80-2060	Amended	25:6 VA.R. 1254	12/31/08
9 VAC 5-80-2070	Amended	25:6 VA.R. 1255	12/31/08
9 VAC 5-80-2230	Amended	25:6 VA.R. 1256	12/31/08
9 VAC 5-91-20	Amended	25:6 VA.R. 1268	12/31/08
9 VAC 5-140-900	Amended	25:6 VA.R. 1275	12/31/08
9 VAC 5-140-920	Amended	25:6 VA.R. 1275	12/31/08
9 VAC 5-140-930	Amended	25:6 VA.R. 1275	12/31/08
9 VAC 5-151-10	Amended	25:6 VA.R. 1276	12/31/08
9 VAC 5-151-20	Amended	25:6 VA.R. 1278	12/31/08
9 VAC 5-151-40	Amended	25:6 VA.R. 1279	12/31/08
9 VAC 5-151-61	Repealed	25:6 VA.R. 1279	12/31/08
9 VAC 5-151-70	Amended	25:6 VA.R. 1280	12/31/08
9 VAC 5-170-20	Amended	25:5 VA.R. 804	1/1/09
9 VAC 5-170-30	Amended	25:6 VA.R. 1256	12/31/08
9 VAC 5-170-40	Amended	25:5 VA.R. 806	1/1/09
9 VAC 5-170-80	Amended	25:5 VA.R. 807	1/1/09
9 VAC 5-170-90	Repealed	25:5 VA.R. 807	1/1/09
9 VAC 5-170-100	Repealed	25:5 VA.R. 807	1/1/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-170-110	Repealed	25:5 VA.R. 809	1/1/09
9 VAC 5-170-180	Amended	25:6 VA.R. 1256	12/31/08
9 VAC 5-170-190	Amended	25:6 VA.R. 1257	12/31/08
9 VAC 5-170-200	Amended	25:6 VA.R. 1257	12/31/08
9 VAC 10-10-10	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-10-20	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-10-30	Repealed	25:4 VA.R. 627	11/26/08
9 VAC 10-11-10 through 9 VAC 10-11-110	Added	25:4 VA.R. 627-630	11/26/08
9 VAC 10-20-120	Amended	24:22 VA.R. 3040	8/6/08
9 VAC 15-10-10 through 9 VAC 15-10-40	Repealed	25:5 VA.R. 809	1/1/09
9 VAC 15-11-10 through 9 VAC 15-11-110	Added	25:5 VA.R. 810-813	1/1/09
9 VAC 20-60-18	Amended	24:9 VA.R. 1106	2/6/08
9 VAC 20-80-10	Amended	25:2 VA.R. 150	11/1/08
9 VAC 20-80-60	Amended	25:2 VA.R. 160	11/1/08
9 VAC 20-80-250	Amended	25:2 VA.R. 166	11/1/08
9 VAC 20-80-260	Amended	25:2 VA.R. 176	11/1/08
9 VAC 20-80-270	Amended	25:2 VA.R. 183	11/1/08
9 VAC 20-80-280	Amended	25:2 VA.R. 191	11/1/08
9 VAC 20-80-485	Amended	25:2 VA.R. 193	11/1/08
9 VAC 20-80-500	Amended	25:2 VA.R. 200	11/1/08
9 VAC 20-80-510	Amended	25:2 VA.R. 203	11/1/08
9 VAC 25-10-10 through 9 VAC 25-10-40	Repealed	25:5 VA.R. 813	1/1/09
9 VAC 25-11-10 through 9 VAC 25-11-110	Added	25:5 VA.R. 813-816	1/1/09
9 VAC 25-32 (Forms)	Amended	24:13 VA.R. 1738	--
9 VAC 25-120-10	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-20	Amended	24:9 VA.R. 1107	2/6/08
9 VAC 25-120-50	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-60	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-70	Amended	24:9 VA.R. 1108	2/6/08
9 VAC 25-120-80	Amended	24:9 VA.R. 1109	2/6/08
9 VAC 25-120-80	Amended	24:18 VA.R. 2502	6/11/08
9 VAC 25-193-40	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-193-70	Amended	24:18 VA.R. 2517	6/11/08
9 VAC 25-196-20	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-40	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-60	Amended	24:9 VA.R. 1124	2/6/08
9 VAC 25-196-70	Amended	24:9 VA.R. 1125	2/6/08
9 VAC 25-196-70	Amended	24:18 VA.R. 2532	6/11/08
9 VAC 25-210-10	Amended	24:9 VA.R. 1132	2/6/08
9 VAC 25-210-10	Amended	25:5 VA.R. 894	12/10/08
9 VAC 25-210-50	Amended	25:5 VA.R. 898	12/10/08
9 VAC 25-210-60	Amended	24:9 VA.R. 1136	2/6/08
9 VAC 25-210-60	Amended	25:5 VA.R. 898	12/10/08
9 VAC 25-210-116	Amended	24:9 VA.R. 1140	2/6/08
9 VAC 25-210-130	Amended	24:9 VA.R. 1142	2/6/08
9 VAC 25-210-130	Amended	25:5 VA.R. 902	12/10/08
9 VAC 25-210-220	Amended	25:5 VA.R. 903	12/10/08
9 VAC 25-260-30	Amended	24:13 VA.R. 1741	10/22/08
9 VAC 25-260-30	Amending	24:26 VA.R. 3747	8/12/08
9 VAC 25-260-30	Amended	25:5 VA.R. 904	10/22/08
9 VAC 25-640 Appendices I through IX	Amended	25:2 VA.R. 217-231	11/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 25-640-10	Amended	25:2 VA.R. 206	11/1/08
9 VAC 25-640-20	Amended	25:2 VA.R. 209	11/1/08
9 VAC 25-640-30	Amended	25:2 VA.R. 209	11/1/08
9 VAC 25-640-50	Amended	25:2 VA.R. 210	11/1/08
9 VAC 25-640-70 through 9 VAC 25-640-120	Amended	25:2 VA.R. 210-213	11/1/08
9 VAC 25-640-130	Repealed	25:2 VA.R. 213	11/1/08
9 VAC 25-640-150 through 9 VAC 25-640-230	Amended	25:2 VA.R. 213-217	11/1/08
9 VAC 25-640-250	Amended	25:2 VA.R. 217	11/1/08
9 VAC 25-660-10	Amended	24:9 VA.R. 1144	2/6/08
9 VAC 25-660-60	Amended	24:9 VA.R. 1145	2/6/08
9 VAC 25-660-70	Amended	24:9 VA.R. 1147	2/6/08
9 VAC 25-660-80	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-660-100	Amended	24:9 VA.R. 1148	2/6/08
9 VAC 25-670-10	Amended	24:9 VA.R. 1156	2/6/08
9 VAC 25-670-70	Amended	24:9 VA.R. 1157	2/6/08
9 VAC 25-670-80	Amended	24:9 VA.R. 1158	2/6/08
9 VAC 25-670-100	Amended	24:9 VA.R. 1159	2/6/08
9 VAC 25-680-10	Amended	24:9 VA.R. 1170	2/6/08
9 VAC 25-680-60	Amended	24:9 VA.R. 1172	2/6/08
9 VAC 25-680-70	Amended	24:9 VA.R. 1174	2/6/08
9 VAC 25-680-80	Amended	24:9 VA.R. 1175	2/6/08
9 VAC 25-680-100	Amended	24:9 VA.R. 1176	2/6/08
9 VAC 25-690-10	Amended	24:9 VA.R. 1188	2/6/08
9 VAC 25-690-70	Amended	24:9 VA.R. 1190	2/6/08
9 VAC 25-690-80	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-690-100	Amended	24:9 VA.R. 1191	2/6/08
9 VAC 25-720-50	Amended	24:18 VA.R. 2540	6/11/08
9 VAC 25-720-120	Amended	24:21 VA.R. 2940	8/7/08
9 VAC 25-720-130	Amended	24:18 VA.R. 2548	6/11/08
9 VAC 25-740-10 through 9 VAC 25-740-210	Added	24:26 VA.R. 3748-3773	10/1/08
9 VAC 25-790 (Forms)	Added	25:6 VA.R. 1285	--
9 VAC 25-820-10	Amended	24:21 VA.R. 2942	8/7/08
9 VAC 25-820-20	Amended	24:21 VA.R. 2944	8/7/08
9 VAC 25-820-70	Amended	24:21 VA.R. 2944	8/7/08
9 VAC 25-860-10 through 9 VAC 25-860-70	Added	25:6 VA.R. 1285-1295	12/24/08
Title 10. Finance and Financial Institutions			
10 VAC 5-20-30	Amended	24:22 VA.R. 3043	6/23/08
10 VAC 5-40-5	Added	24:22 VA.R. 3045	7/1/08
10 VAC 5-40-60	Added	24:22 VA.R. 3045	7/1/08
10 VAC 5-160-10	Amended	24:26 VA.R. 3775	8/10/08
10 VAC 5-160-70	Added	24:26 VA.R. 3776	8/10/08
10 VAC 5-160-80	Added	24:26 VA.R. 3776	8/10/08
10 VAC 5-200-10	Amended	25:4 VA.R. 637	1/1/09
10 VAC 5-200-20	Amended	25:4 VA.R. 637	1/1/09
10 VAC 5-200-33	Added	25:4 VA.R. 638	1/1/09
10 VAC 5-200-35	Added	25:4 VA.R. 639	1/1/09
10 VAC 5-200-40	Amended	25:4 VA.R. 641	1/1/09
10 VAC 5-200-60	Amended	25:4 VA.R. 642	1/1/09
10 VAC 5-200-70	Amended	25:4 VA.R. 642	1/1/09
10 VAC 5-200-80	Amended	25:4 VA.R. 643	1/1/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
10 VAC 5-200-110	Added	25:4 VA.R. 646	1/1/09
10 VAC 5-200-115	Added	25:4 VA.R. 651	1/1/09
10 VAC 5-200-120	Added	25:4 VA.R. 650	1/1/09
Title 11. Gaming			
11 VAC 10-10-10 through 11 VAC 10-10-70	Repealed	25:5 VA.R. 904	12/10/08
11 VAC 10-11-10 through 11 VAC 10-11-110	Added	25:5 VA.R. 905-907	12/10/08
11 VAC 10-130-60	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-10	Amended	24:16 VA.R. 2247	4/14/08
11 VAC 10-180-20	Repealed	24:16 VA.R. 2248	4/14/08
11 VAC 10-180-25	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-35	Added	24:16 VA.R. 2250	4/14/08
11 VAC 10-180-60	Amended	24:16 VA.R. 2251	4/14/08
11 VAC 10-180-70	Amended	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-75	Added	24:16 VA.R. 2256	4/14/08
11 VAC 10-180-80	Amended	24:16 VA.R. 2257	4/14/08
11 VAC 10-180-85	Amended	24:16 VA.R. 2258	4/14/08
11 VAC 10-180-110	Amended	24:16 VA.R. 2259	4/14/08
11 VAC 15-12-10	Repealed	25:4 VA.R. 651	11/26/08
11 VAC 15-12-20	Repealed	25:4 VA.R. 651	11/26/08
11 VAC 15-13-10 through 11 VAC 15-13-110	Added	25:4 VA.R. 652-654	11/26/08
Title 12. Health			
12 VAC 5-10-10 through 12 VAC 5-10-80	Repealed	25:4 VA.R. 654	1/1/09
12 VAC 5-11-10 through 12 VAC 5-11-110	Added	25:4 VA.R. 655-657	1/1/09
12 VAC 5-67-10 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-20 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-30 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-90-370	Added	24:19 VA.R. 2777	7/1/08
12 VAC 5-195-10 through 12 VAC 5-195-670	Added	24:19 VA.R. 2778-2802	5/26/08
12 VAC 5-220-10	Amended	24:11 VA.R. 1350	3/5/08
12 VAC 5-220-110	Amended	24:11 VA.R. 1353	3/5/08
12 VAC 5-220-110	Amended	25:1 VA.R. 26	10/15/08
12 VAC 5-220-130	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-160	Amended	25:1 VA.R. 25	10/15/08
12 VAC 5-220-200	Amended	24:11 VA.R. 1354	3/5/08
12 VAC 5-220-200	Amended	25:1 VA.R. 26	10/15/08
12 VAC 5-371-150	Amended	24:11 VA.R. 1357	3/5/08
12 VAC 5-381-10 through 12 VAC 5-381-40	Amended	24:11 VA.R. 1358-1361	3/5/08
12 VAC 5-381-60 through 12 VAC 5-381-100	Amended	24:11 VA.R. 1361-1362	3/5/08
12 VAC 5-381-120	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-140	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-150	Amended	24:11 VA.R. 1362	3/5/08
12 VAC 5-381-240	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-381-280	Amended	24:11 VA.R. 1363	3/5/08
12 VAC 5-391-10	Amended	24:11 VA.R. 1364	3/5/08
12 VAC 5-391-30 through 12 VAC 5-391-100	Amended	24:11 VA.R. 1366-1368	3/5/08
12 VAC 5-391-120	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-130	Amended	24:11 VA.R. 1368	3/5/08
12 VAC 5-391-150	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-160	Amended	24:11 VA.R. 1369	3/5/08
12 VAC 5-391-250	Amended	24:11 VA.R. 1370	3/5/08
12 VAC 5-391-280	Amended	24:11 VA.R. 1370	3/5/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-410-230	Amended	24:11 VA.R. 1371	3/5/08
12 VAC 5-481-10	Amended	24:18 VA.R. 2566	6/12/08
12 VAC 5-481-10	Amended	25:2 VA.R. 231	11/1/08
12 VAC 5-481-20	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-30	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-90	Amended	24:18 VA.R. 2592	6/12/08
12 VAC 5-481-100	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-110	Amended	24:18 VA.R. 2593	6/12/08
12 VAC 5-481-130	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-150	Amended	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-200	Repealed	24:18 VA.R. 2594	6/12/08
12 VAC 5-481-230 through 12 VAC 5-481-270	Amended	24:18 VA.R. 2594-2595	6/12/08
12 VAC 5-481-340	Amended	24:18 VA.R. 2595	6/12/08
12 VAC 5-481-370 through 12 VAC 5-481-450	Amended	24:18 VA.R. 2597-2607	6/12/08
12 VAC 5-481-390	Amended	25:2 VA.R. 256	11/1/08
12 VAC 5-481-400	Amended	25:2 VA.R. 256	11/1/08
12 VAC 5-481-450	Amended	25:2 VA.R. 257	11/1/08
12 VAC 5-481-451	Added	24:25 VA.R. 3612	10/3/08
12 VAC 5-481-460	Repealed	24:18 VA.R. 2607	6/12/08
12 VAC 5-481-470	Amended	24:18 VA.R. 2608	6/12/08
12 VAC 5-481-480	Amended	24:18 VA.R. 2610	6/12/08
12 VAC 5-481-480	Amended	25:2 VA.R. 260	11/1/08
12 VAC 5-481-500	Amended	24:18 VA.R. 2619	6/12/08
12 VAC 5-481-510	Amended	24:18 VA.R. 2620	6/12/08
12 VAC 5-481-530 through 12 VAC 5-481-590	Amended	24:18 VA.R. 2622-2626	6/12/08
12 VAC 5-481-571	Added	24:18 VA.R. 2624	6/12/08
12 VAC 5-481-630 through 12 VAC 5-481-760	Amended	24:18 VA.R. 2626-2629	6/12/08
12 VAC 5-481-780	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-790	Amended	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-800	Repealed	24:18 VA.R. 2629	6/12/08
12 VAC 5-481-810 through 12 VAC 5-481-910	Amended	24:18 VA.R. 2630-2631	6/12/08
12 VAC 5-481-930 through 12 VAC 5-481-1050	Amended	24:18 VA.R. 2632-2633	6/12/08
12 VAC 5-481-971	Added	24:18 VA.R. 2632	6/12/08
12 VAC 5-481-1070	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1090	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1100	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1110	Amended	24:18 VA.R. 2633	6/12/08
12 VAC 5-481-1130	Amended	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1151	Added	24:18 VA.R. 2634	6/12/08
12 VAC 5-481-1160	Repealed	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1161	Added	24:18 VA.R. 2635	6/12/08
12 VAC 5-481-1190	Amended	24:18 VA.R. 2637	6/12/08
12 VAC 5-481-1200	Amended	24:18 VA.R. 2638	6/12/08
12 VAC 5-481-1220 through 12 VAC 5-481-1250	Amended	24:18 VA.R. 2639-2640	6/12/08
12 VAC 5-481-1270	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1300	Amended	24:18 VA.R. 2640	6/12/08
12 VAC 5-481-1310	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1320	Amended	24:18 VA.R. 2641	6/12/08
12 VAC 5-481-1350	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1380	Amended	24:18 VA.R. 2644	6/12/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-1420	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1440	Amended	24:18 VA.R. 2644	6/12/08
12 VAC 5-481-1490	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1520	Amended	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1540	Repealed	24:18 VA.R. 2645	6/12/08
12 VAC 5-481-1550	Repealed	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1560	Amended	24:18 VA.R. 2646	6/12/08
12 VAC 5-481-1570	Amended	24:18 VA.R. 2647	6/12/08
12 VAC 5-481-1670 through 12 VAC 5-481-2040	Amended	24:18 VA.R. 2647-2650	6/12/08
12 VAC 5-481-2001	Added	24:18 VA.R. 2649	6/12/08
12 VAC 5-481-2050	Repealed	24:18 VA.R. 2650	6/12/08
12 VAC 5-481-2060	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2070	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2080	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2100	Amended	24:18 VA.R. 2651	6/12/08
12 VAC 5-481-2230	Amended	24:18 VA.R. 2652	6/12/08
12 VAC 5-481-2240	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2260	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2270	Amended	24:18 VA.R. 2653	6/12/08
12 VAC 5-481-2280	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2330	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2420	Amended	24:18 VA.R. 2654	6/12/08
12 VAC 5-481-2430	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2470	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2490	Amended	24:18 VA.R. 2655	6/12/08
12 VAC 5-481-2510	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2530	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2540	Amended	24:18 VA.R. 2656	6/12/08
12 VAC 5-481-2550	Amended	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2571	Added	24:18 VA.R. 2657	6/12/08
12 VAC 5-481-2572	Added	24:18 VA.R. 2659	6/12/08
12 VAC 5-481-2573	Added	24:18 VA.R. 2660	6/12/08
12 VAC 5-481-2660 through 12 VAC 5-481-2950	Amended	24:18 VA.R. 2660-2661	6/12/08
12 VAC 5-481-2870	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-481-2970	Amended	24:18 VA.R. 2661	6/12/08
12 VAC 5-481-2980	Amended	24:18 VA.R. 2662	6/12/08
12 VAC 5-481-3000 through 12 VAC 5-481-3040	Amended	24:18 VA.R. 2663-2665	6/12/08
12 VAC 5-481-3070 through 12 VAC 5-481-3140	Amended	24:18 VA.R. 2667-2670	6/12/08
12 VAC 5-481-3050	Repealed	24:18 VA.R. 2665	6/12/08
12 VAC 5-481-3051	Added	24:18 VA.R. 2666	6/12/08
12 VAC 5-481-3091	Added	24:18 VA.R. 2668	6/12/08
12 VAC 5-481-3151	Added	24:18 VA.R. 2670	6/12/08
12 VAC 5-481-3160	Amended	24:18 VA.R. 2671	6/12/08
12 VAC 5-481-3160	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-481-3200 through 12 VAC 5-481-3270	Amended	24:18 VA.R. 2671-2675	6/12/08
12 VAC 5-481-3241	Added	24:18 VA.R. 2673	6/12/08
12 VAC 5-481-3261	Added	24:18 VA.R. 2674	6/12/08
12 VAC 5-481-3290	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3300	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3340	Amended	24:18 VA.R. 2675	6/12/08
12 VAC 5-481-3350	Amended	24:18 VA.R. 2675	6/12/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-481-3400	Amended	24:18 VA.R. 2676	6/12/08
12 VAC 5-481-3430	Amended	24:18 VA.R. 2677	6/12/08
12 VAC 5-481-3440	Amended	24:18 VA.R. 2683	6/12/08
12 VAC 5-481-3480	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3490	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3510	Amended	24:18 VA.R. 2684	6/12/08
12 VAC 5-481-3520	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3530	Amended	24:18 VA.R. 2685	6/12/08
12 VAC 5-481-3560	Amended	24:18 VA.R. 2686	6/12/08
12 VAC 5-481-3580	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3600	Amended	24:18 VA.R. 2687	6/12/08
12 VAC 5-481-3610	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3650	Amended	24:18 VA.R. 2688	6/12/08
12 VAC 5-481-3670	Repealed	24:18 VA.R. 2689	6/12/08
12 VAC 5-481-3680 through 12 VAC 5-481-3780	Added	24:18 VA.R. 2689-2715	6/12/08
12 VAC 5-481-3710	Amended	25:2 VA.R. 267	11/1/08
12 VAC 5-590-10	Amended	25:5 VA.R. 908	12/10/08
12 VAC 5-590-370	Amended	25:5 VA.R. 916	12/10/08
12 VAC 5-590-410	Amended	25:5 VA.R. 955	12/10/08
12 VAC 5-590-420	Amended	25:5 VA.R. 959	12/10/08
12 VAC 5-590-440	Amended	25:5 VA.R. 994	12/10/08
12 VAC 5-590-500	Amended	25:5 VA.R. 998	12/10/08
12 VAC 5-590-530	Amended	25:5 VA.R. 999	12/10/08
12 VAC 5-590-540	Amended	25:5 VA.R. 1011	12/10/08
12 VAC 5-590-545	Amended	25:5 VA.R. 1016	12/10/08
12 VAC 5-590-550	Amended	25:5 VA.R. 1021	12/10/08
12 VAC 30-5-10 through 12 VAC 30-5-110	Added	25:3 VA.R. 380-383	11/12/08
12 VAC 30-10-815	Added	25:4 VA.R. 662	11/26/08
12 VAC 30-40-290 emer	Amended	25:1 VA.R. 35	8/27/08-8/26/09
12 VAC 30-50-130 emer	Amended	24:23 VA.R. 3165	7/2/08 - 7/1/09
12 VAC 30-50-130	Amended	25:5 VA.R. 1041	12/10/08
12 VAC 30-50-140 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-150 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-180 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-228 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-229.1	Repealed	25:5 VA.R. 1045	12/10/08
12 VAC 30-50-320	Amended	25:8 VA.R. 1515	2/5/09
12 VAC 30-50-330 through 12 VAC 30-50-360	Added	25:8 VA.R. 1515-1520	2/5/09
12 VAC 30-50-491 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-50-530	Amended	25:5 VA.R. 1049	12/10/08
12 VAC 30-60-180 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-60-185 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-60-500 emer	Added	25:3 VA.R. 384	8/8/07-2/7/09
12 VAC 30-70-70	Amended	25:3 VA.R. 387	11/27/08
12 VAC 30-70-221	Amended	24:21 VA.R. 2959	7/23/08
12 VAC 30-70-261	Amended	25:3 VA.R. 388	11/27/08
12 VAC 30-70-271	Amended	25:3 VA.R. 388	11/27/08
12 VAC 30-70-311	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-70-321	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-70-500	Repealed	25:3 VA.R. 389	11/27/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-80-30	Erratum	24:17 VA.R. 2473	--
12 VAC 30-80-30	Amended	24:21 VA.R. 2962	7/23/08
12 VAC 30-80-32 emer	Added	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-80-40 emer	Amended	24:25 VA.R. 3617	8/4/08-8/3/09
12 VAC 30-80-75	Added	24:21 VA.R. 2965	7/23/08
12 VAC 30-80-190 emer	Amended	25:1 VA.R. 41	8/27/08-8/26/09
12 VAC 30-90-41	Amended	24:26 VA.R. 3778	10/15/08
12 VAC 30-90-264	Amended	25:3 VA.R. 390	11/27/08
12 VAC 30-100-10 through 12 VAC 30-100-60	Repealed	25:3 VA.R. 383-384	11/12/08
12 VAC 30-100-170	Amended	24:25 VA.R. 3622	10/2/08
12 VAC 30-120-61 through 12 VAC 30-120-68	Repealed	25:8 VA.R. 1520-1526	2/5/09
12 VAC 30-120-70 emer	Amended	24:23 VA.R. 3168	7/1/08 - 6/30/09
12 VAC 30-120-90 emer	Amended	24:23 VA.R. 3169	7/1/08 - 6/30/09
12 VAC 30-120-100	Amended	24:26 VA.R. 3781	10/15/08
12 VAC 30-120-140 emer	Amended	24:23 VA.R. 3171	7/1/08 - 6/30/09
12 VAC 30-120-211 emer	Amended	24:23 VA.R. 3174	7/1/08 - 6/30/09
12 VAC 30-120-213 emer	Amended	24:23 VA.R. 3177	7/1/08 - 6/30/09
12 VAC 30-120-225 emer	Amended	24:23 VA.R. 3178	7/1/08 - 6/30/09
12 VAC 30-120-229 emer	Amended	24:23 VA.R. 3181	7/1/08 - 6/30/09
12 VAC 30-120-237 emer	Amended	24:23 VA.R. 3182	7/1/08 - 6/30/09
12 VAC 30-120-247 emer	Amended	24:23 VA.R. 3184	7/1/08 - 6/30/09
12 VAC 30-120-310 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-120-370 emer	Amended	25:3 VA.R. 393	9/1/07-3/3/09
12 VAC 30-120-380 emer	Amended	25:3 VA.R. 393	9/1/07-3/3/09
12 VAC 30-120-380 emer	Amended	25:3 VA.R. 393	7/1/07-12/29/08
12 VAC 30-120-700 emer	Amended	24:23 VA.R. 3185	7/1/08 - 6/30/09
12 VAC 30-120-710 emer	Amended	24:23 VA.R. 3189	7/1/08 - 6/30/09
12 VAC 30-120-754 emer	Amended	24:23 VA.R. 3190	7/1/08 - 6/30/09
12 VAC 30-120-758 emer	Amended	24:23 VA.R. 3191	7/1/08 - 6/30/09
12 VAC 30-120-762 emer	Amended	24:23 VA.R. 3192	7/1/08 - 6/30/09
12 VAC 30-120-770 emer	Amended	24:23 VA.R. 3193	7/1/08 - 6/30/09
12 VAC 30-120-900 emer	Amended	24:23 VA.R. 3195	7/1/08 - 6/30/09
12 VAC 30-120-910 emer	Amended	24:23 VA.R. 3197	7/1/08 - 6/30/09
12 VAC 30-120-920 emer	Amended	24:23 VA.R. 3198	7/1/08 - 6/30/09
12 VAC 30-120-970 emer	Amended	24:23 VA.R. 3200	7/1/08 - 6/30/09
12 VAC 30-120-1500 emer	Amended	24:23 VA.R. 3202	7/1/08 - 6/30/09
12 VAC 30-120-1550 emer	Amended	24:23 VA.R. 3204	7/1/08 - 6/30/09
12 VAC 30-120-2000 emer	Added	24:23 VA.R. 3206	7/1/08 - 6/30/09
12 VAC 30-120-2010 emer	Added	24:23 VA.R. 3207	7/1/08 - 6/30/09
12 VAC 30-135-10	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-20	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-30	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-40	Amended	24:26 VA.R. 3783	10/16/08
12 VAC 30-135-70	Amended	24:26 VA.R. 3784	10/16/08
12 VAC 35-11-10 through 12 VAC 35-11-110	Repealed	25:2 VA.R. 271	10/29/08
12 VAC 35-12-10 through 12 VAC 35-12-110	Added	25:2 VA.R. 271-274	10/29/08
12 VAC 35-105-115	Added	24:11 VA.R. 1372	3/5/08
Title 13. Housing			
13 VAC 5-10-10 through 13 VAC 5-10-120	Repealed	25:4 VA.R. 666	11/26/08
13 VAC 5-11-10 through 13 VAC 5-11-110	Added	25:4 VA.R. 667-669	11/26/08
13 VAC 5-21-10	Amended	24:14 VA.R. 1894	5/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-21-20	Amended	24:14 VA.R. 1894	5/1/08
13 VAC 5-21-31	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-41	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-45	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-51	Amended	24:14 VA.R. 1895	5/1/08
13 VAC 5-21-61	Amended	24:14 VA.R. 1896	5/1/08
13 VAC 5-31-20 through 13 VAC 5-31-50	Amended	24:14 VA.R. 1897-1898	5/1/08
13 VAC 5-31-70 through 13 VAC 5-31-170	Repealed	24:14 VA.R. 1898-1903	5/1/08
13 VAC 5-31-75	Added	24:14 VA.R. 1898	5/1/08
13 VAC 5-31-85	Added	24:14 VA.R. 1900	5/1/08
13 VAC 5-31-200	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-210	Amended	24:14 VA.R. 1904	5/1/08
13 VAC 5-31-215 through 13 VAC 5-31-270	Added	24:14 VA.R. 1904-1905	5/1/08
13 VAC 5-51-21 through 13 VAC 5-51-51	Amended	24:14 VA.R. 1907-1910	5/1/08
13 VAC 5-51-81	Amended	24:14 VA.R. 1910	5/1/08
13 VAC 5-51-81	Amended	24:25 VA.R. 3622	10/1/08
13 VAC 5-51-85	Amended	24:14 VA.R. 1921	5/1/08
13 VAC 5-51-91	Amended	24:14 VA.R. 1924	5/1/08
13 VAC 5-51-130 through 13 VAC 5-51-135	Amended	24:14 VA.R. 1925-1928	5/1/08
13 VAC 5-51-143	Added	24:14 VA.R. 1928	5/1/08
13 VAC 5-51-145	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-150	Amended	24:14 VA.R. 1932	5/1/08
13 VAC 5-51-152	Repealed	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-154	Amended	24:14 VA.R. 1937	5/1/08
13 VAC 5-51-155	Amended	24:14 VA.R. 1939	5/1/08
13 VAC 5-63-10 through 13 VAC 5-63-50	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-70	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-80	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-100 through 13 VAC 5-63-130	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-150	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-160	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-190 through 13 VAC 5-63-260	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-225	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-265	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-267	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-270	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-280	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-300 through 13 VAC 5-63-360	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-335	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-400	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-430	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-432	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-434 through 13 VAC 5-63-450	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-470 through 13 VAC 5-63-500	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-520	Amended	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-525	Added	24:14 VA.R. 1941	5/1/08
13 VAC 5-63-550	Repealed	24:14 VA.R. 1941	5/1/08
13 VAC 5-91-20	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-100	Amended	24:14 VA.R. 1943	5/1/08
13 VAC 5-91-110	Repealed	24:14 VA.R. 1944	5/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
13 VAC 5-91-115	Added	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-120	Amended	24:14 VA.R. 1944	5/1/08
13 VAC 5-91-160	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-91-270	Amended	24:14 VA.R. 1945	5/1/08
13 VAC 5-95-10	Amended	24:14 VA.R. 1947	5/1/08
13 VAC 5-95-30	Amended	24:14 VA.R. 1948	5/1/08
13 VAC 5-112-340	Amended	24:8 VA.R. 979	1/23/08
13 VAC 5-200-10	Amended	24:26 VA.R. 3784	10/1/08
13 VAC 5-200-40 through 13 VAC 5-200-80	Amended	24:26 VA.R. 3784-3785	10/1/08
13 VAC 5-200-100	Amended	24:26 VA.R. 3785	10/1/08
13 VAC 6-10-10 through 13 VAC 6-10-120	Repealed	25:3 VA.R. 394	11/13/08
13 VAC 6-11-10 through 13 VAC 6-11-110	Added	25:3 VA.R. 394-397	11/13/08
13 VAC 10-180-10	Amended	24:11 VA.R. 1373	2/4/08
13 VAC 10-180-40	Amended	25:7 VA.R. 1418	1/1/09
13 VAC 10-180-50	Amended	24:11 VA.R. 1374	2/4/08
13 VAC 10-180-50	Amended	25:7 VA.R. 1419	1/1/09
13 VAC 10-180-60	Amended	24:11 VA.R. 1376	2/4/08
13 VAC 10-180-60	Amended	24:11 VA.R. 1387	2/4/08
13 VAC 10-180-60	Amended	25:7 VA.R. 1421	1/1/09
13 VAC 10-180-100	Amended	24:11 VA.R. 1397	2/4/08
Title 14. Insurance			
14 VAC 5-30-30	Amended	24:15 VA.R. 2153	4/1/08
14 VAC 5-200-185	Amended	24:15 VA.R. 2155	4/1/08
14 VAC 5-211-50	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-211-90	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-211-100	Amended	24:22 VA.R. 3063	7/1/08
14 VAC 5-215 (Forms)	Amended	24:17 VA.R. 2452	--
14 VAC 5-270-10 through 14 VAC 5-270-150	Amended	24:12 VA.R. 1460-1470	1/1/10
14 VAC 5-270-144	Added	24:12 VA.R. 1467	1/1/10
14 VAC 5-270-146	Added	24:12 VA.R. 1468	1/1/10
14 VAC 5-270-148	Added	24:12 VA.R. 1469	1/1/10
14 VAC 5-270-170	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-174	Added	24:12 VA.R. 1470	1/1/10
14 VAC 5-270-180	Amended	24:12 VA.R. 1470	1/1/10
14 VAC 5-323-10 through 14 VAC 5-323-70	Added	25:8 VA.R. 1527-1528	1/1/09
14 VAC 5-395-40	Amended	24:26 VA.R. 3811	8/29/08
Title 15. Judicial			
15 VAC 5-80-50	Amended	24:23 VA.R. 3211	7/1/08
Title 16. Labor and Employment			
16 VAC 15-10-10 through 16 VAC 15-10-100	Repealed	25:4 VA.R. 672	11/26/08
16 VAC 15-11-10 through 16 VAC 15-11-110	Added	25:4 VA.R. 672-675	11/26/08
16 VAC 15-21-30	Amended	24:23 VA.R. 3213	8/21/08
16 VAC 15-30-40	Amended	24:25 VA.R. 3632	9/18/08
16 VAC 15-30-190	Amended	24:23 VA.R. 3214	8/21/08
16 VAC 20-10-10 through 16 VAC 20-10-100	Repealed	25:4 VA.R. 675	11/27/08
16 VAC 20-11-10 through 16 VAC 20-11-110	Added	25:4 VA.R. 676-678	11/27/08
16 VAC 20-20-20	Amended	24:22 VA.R. 3065	8/7/08
16 VAC 20-20-40	Amended	24:22 VA.R. 3066	8/7/08
16 VAC 20-20-50	Amended	24:22 VA.R. 3068	8/7/08
16 VAC 20-20-60	Amended	24:22 VA.R. 3069	8/7/08
16 VAC 20-20-80	Amended	24:22 VA.R. 3070	8/7/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
16 VAC 20-20-110	Amended	24:22 VA.R. 3070	8/7/08
16 VAC 25-10-10 through 16 VAC 25-10-120	Repealed	24:26 VA.R. 3811	10/1/08
16 VAC 25-11-10 through 16 VAC 25-11-110	Added	24:26 VA.R. 3811-3814	10/1/08
16 VAC 25-20-10	Amended	25:8 VA.R. 1529	2/1/09
16 VAC 25-90-1910.6	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.68	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.94	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.103	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.107	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.110	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.111	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.132	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-90-1910.144	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.243	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.251	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.253	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-90-1910.261	Added	24:16 VA.R. 2262	6/1/08
16 VAC 25-100-1915.152	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-120-1917.96	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-130-1918.106	Added	24:16 VA.R. 2263	6/1/08
16 VAC 25-175-1926.95	Added	24:16 VA.R. 2263	6/1/08
16 VAC 30-11-10 through 16 VAC 30-11-30	Repealed	25:6 VA.R. 1307	12/24/08
16 VAC 30-12-10 through 16 VAC 30-12-110	Added	25:6 VA.R. 1307-1310	12/24/08
Title 17. Libraries and Cultural Resources			
17 VAC 5-10-10 through 17 VAC 5-10-40	Repealed	25:6 VA.R. 1310	12/24/08
17 VAC 5-11-10 through 17 VAC 5-11-110	Added	25:6 VA.R. 1311-1313	12/24/08
17 VAC 10-10-10 through 17 VAC 10-10-40	Repealed	25:6 VA.R. 1313	12/24/08
17 VAC 10-11-10 through 17 VAC 10-11-110	Added	25:6 VA.R. 1314-1316	12/24/08
17 VAC 15-10-10	Repealed	25:5 VA.R. 1064	12/10/08
17 VAC 15-11-10 through 17 VAC 15-11-110	Added	25:5 VA.R. 1065-1067	12/10/08
17 VAC 15-120-10	Added	25:6 VA.R. 1317	12/24/08
17 VAC 15-120-20	Added	25:6 VA.R. 1317	12/24/08
17 VAC 15-120-30	Added	25:6 VA.R. 1317	12/24/08
Title 18. Professional and Occupational Licensing			
18 VAC 5-10-10 through 18 VAC 5-10-90	Repealed	25:4 VA.R. 678	11/26/08
18 VAC 5-11-10 through 18 VAC 5-11-110	Added	25:4 VA.R. 679-682	11/26/08
18 VAC 10-10-10 through 18 VAC 10-10-90	Repealed	25:4 VA.R. 682	11/27/08
18 VAC 10-11-10 through 18 VAC 10-11-110	Added	25:4 VA.R. 682-685	11/27/08
18 VAC 10-20-10	Amended	25:3 VA.R. 397	12/1/08
18 VAC 10-20-120	Amended	25:3 VA.R. 399	12/1/08
18 VAC 10-20-120	Amended	25:5 VA.R. 1068	1/1/09
18 VAC 10-20-140	Amended	25:5 VA.R. 1068	1/1/09
18 VAC 10-20-280	Amended	25:3 VA.R. 399	12/1/08
18 VAC 10-20-295	Amended	25:3 VA.R. 400	12/1/08
18 VAC 10-20-310	Amended	25:3 VA.R. 400	12/1/08
18 VAC 10-20-310	Erratum	25:7 VA.R. 1451	--
18 VAC 10-20-340	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-350	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-360	Amended	25:3 VA.R. 401	12/1/08
18 VAC 10-20-380	Amended	25:3 VA.R. 402	12/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 10-20-382	Added	25:3 VA.R. 403	12/1/08
18 VAC 10-20-392	Added	25:3 VA.R. 404	12/1/08
18 VAC 10-20-395	Added	25:3 VA.R. 404	12/1/08
18 VAC 10-20-760	Amended	25:3 VA.R. 404	12/1/08
18 VAC 15-10-10 through 18 VAC 15-10-90	Repealed	25:1 VA.R. 55	10/15/08
18 VAC 15-11-10 through 18 VAC 15-11-110	Added	25:1 VA.R. 55-58	10/15/08
18 VAC 15-20-451	Amended	24:17 VA.R. 2455	8/1/08
18 VAC 25-10-10 through 18 VAC 25-10-90	Repealed	25:6 VA.R. 1318	12/24/08
18 VAC 25-11-10 through 18 VAC 25-11-110	Added	25:6 VA.R. 1319-1321	12/24/08
18 VAC 25-21	Erratum	25:8 VA.R. 1644	--
18 VAC 25-21-20	Amended	25:7 VA.R. 1431	2/1/09
18 VAC 25-21-40	Amended	25:7 VA.R. 1432	2/1/09
18 VAC 25-21-50	Amended	25:7 VA.R. 1432	2/1/09
18 VAC 25-21-60	Amended	25:7 VA.R. 1432	2/1/09
18 VAC 25-21-110	Amended	25:7 VA.R. 1433	2/1/09
18 VAC 25-21-120	Amended	25:7 VA.R. 1433	2/1/09
18 VAC 25-21-150	Amended	25:7 VA.R. 1433	2/1/09
18 VAC 25-21-170	Amended	25:7 VA.R. 1434	2/1/09
18 VAC 25-21-180	Amended	25:7 VA.R. 1434	2/1/09
18 VAC 25-21-185	Added	25:7 VA.R. 1435	2/1/09
18 VAC 30-10-10 through 18 VAC 30-10-120	Repealed	25:5 VA.R. 1070	12/10/08
18 VAC 30-11-10 through 18 VAC 30-11-110	Added	25:5 VA.R. 1070-1073	12/10/08
18 VAC 30-20 (Forms)	Amended	24:26 VA.R. 3814	--
18 VAC 30-20-80	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-170	Amended	24:10 VA.R. 1284	2/20/08
18 VAC 30-20-171	Amended	24:10 VA.R. 1285	2/20/08
18 VAC 41-10-10 through 18 VAC 41-10-90	Repealed	25:6 VA.R. 1321	12/24/08
18 VAC 41-11-10 through 18 VAC 41-11-110	Added	25:6 VA.R. 1322-1325	12/24/08
18 VAC 45-10-10 through 18 VAC 45- 10-90	Repealed	24:26 VA.R. 3815	10/2/08
18 VAC 45-11-10 through 18 VAC 45-11-110	Added	24:26 VA.R. 3815-3818	10/2/08
18 VAC 47-10-10 through 18 VAC 47-10-90	Repealed	25:6 VA.R. 1325	12/24/08
18 VAC 47-11-10 through 18 VAC 47-11-110	Added	25:6 VA.R. 1325-1328	12/24/08
18 VAC 48-10-10 through 18 VAC 48-10-110	Added	25:3 VA.R. 411-414	11/13/08
18 VAC 48-20-10 through 18 VAC 48-20-730 emer	Added	25:5 VA.R. 1074-1093	11/13/08-11/12/09
18 VAC 48-40-10 through 18 VAC 48-40-110	Added	25:4 VA.R. 685-688	11/27/08
18 VAC 48-50-10 through 18 VAC 48-50-200 emer	Added	25:5 VA.R. 1095-1100	11/13/08-11/12/09
18 VAC 48-60-10 through 18 VAC 48-60-60	Added	25:4 VA.R. 688-689	11/27/08
18 VAC 50-10-10 through 18 VAC 50-10-90	Repealed	25:6 VA.R. 1328	12/24/08
18 VAC 50-11-10 through 18 VAC 50-11-110	Added	25:6 VA.R. 1328-1331	12/24/08
18 VAC 50-22-40	Amended	25:3 VA.R. 415	12/1/08
18 VAC 50-22-50	Amended	25:3 VA.R. 415	12/1/08
18 VAC 50-22-60	Amended	25:3 VA.R. 416	12/1/08
18 VAC 50-22-300 through 18 VAC 50-22-350	Added	25:3 VA.R. 417-418	12/1/08
18 VAC 60-10-10 through 18 VAC 60-10-120	Repealed	25:3 VA.R. 418	11/12/08
18 VAC 60-11-10 through 18 VAC 60-11-110	Added	25:3 VA.R. 419-422	11/12/08
18 VAC 60-20 (Forms)	Amended	25:1 VA.R. 58	--
18 VAC 60-20-30	Amended	24:20 VA.R. 2874	7/24/08
18 VAC 60-20-81	Added	24:14 VA.R. 1949	4/16/08
18 VAC 60-20-108	Amended	24:14 VA.R. 1950	4/16/08
18 VAC 60-20-190	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 60-20-220	Amended	24:10 VA.R. 1287	3/10/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 60-20-220	Amended	24:14 VA.R. 1951	4/16/08
18 VAC 62-10-10 through 18 VAC 62-10-110	Added	25:6 VA.R. 1332-1334	12/24/08
18 VAC 65-10-10 through 18 VAC 65-10-120	Repealed	25:2 VA.R. 291	10/29/08
18 VAC 65-11-10 through 18 VAC 65-11-110	Added	25:2 VA.R. 291-294	10/29/08
18 VAC 65-20 (Forms)	Amended	24:26 VA.R. 3818	--
18 VAC 65-20-10	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-15	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-60	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-120	Amended	24:24 VA.R. 3358	9/3/08
18 VAC 65-20-130	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-151	Amended	24:22 VA.R. 3070	8/6/08
18 VAC 65-20-153	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-170	Amended	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-171	Added	24:24 VA.R. 3359	9/3/08
18 VAC 65-20-240	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-350	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-420	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-440	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-500	Amended	24:24 VA.R. 3360	9/3/08
18 VAC 65-20-510	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-20-590	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-20-700	Amended	24:24 VA.R. 3361	9/3/08
18 VAC 65-40 (Forms)	Amended	24:26 VA.R. 3818	--
18 VAC 70-10-10 through 18 VAC 70-10-90	Repealed	25:5 VA.R. 1100	12/10/08
18 VAC 70-11-10 through 18 VAC 70-11-110	Added	25:5 VA.R. 1100-1103	12/10/08
18 VAC 75-10-10 through 18 VAC 75-10-120	Repealed	25:2 VA.R. 294	10/29/08
18 VAC 75-11-10 through 18 VAC 75-11-110	Added	25:2 VA.R. 295-297	10/29/08
18 VAC 75-20 (Forms)	Amended	24:25 VA.R. 3632	--
18 VAC 76-20 (Forms)	Amended	24:26 VA.R. 3819	--
18 VAC 76-30-10 through 18 VAC 76-30-120	Repealed	24:25 VA.R. 3632	9/17/08
18 VAC 76-31-10 through 18 VAC 76-31-110	Added	24:25 VA.R. 3633-3635	9/17/08
18 VAC 76-40 (Forms)	Amended	24:26 VA.R. 3820	--
18 VAC 80-10-10 through 18 VAC 80-10-90	Repealed	25:6 VA.R. 1334	12/24/08
18 VAC 80-11-10 through 18 VAC 80-11-110	Added	25:6 VA.R. 1335-1338	12/24/08
18 VAC 85-10-10 through 18 VAC 85-10-110	Repealed	24:26 VA.R. 3820	10/1/08
18 VAC 85-11-10 through 18 VAC 85-11-110	Added	24:26 VA.R. 3820	10/1/08
18 VAC 85-20 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-20-22	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-22	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 85-20-225	Amended	24:24 VA.R. 3367	9/3/08
18 VAC 85-20-226	Added	24:11 VA.R. 1404	3/5/08
18 VAC 85-20-400	Amended	24:20 VA.R. 2876	7/24/08
18 VAC 85-40 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-40-35	Amended	24:11 VA.R. 1404	3/5/08
18 VAC 85-40-55	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-40-67	Added	24:11 VA.R. 1405	3/5/08
18 VAC 85-50 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-50-35	Amended	24:11 VA.R. 1405	3/5/08
18 VAC 85-50-59	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-50-61	Added	24:11 VA.R. 1405	3/5/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 85-80 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-80-10 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-26	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-26 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-40 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-45 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-50 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-61 emer	Repealed	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-65	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-80-65 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-70 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-72 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-73	Added	24:11 VA.R. 1406	3/5/08
18 VAC 85-80-73 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-80 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-90 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-100 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-110 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-111 emer	Added	25:5 VA.R. 1108	11/1/08-10/31/09
18 VAC 85-101 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-101-25	Amended	24:11 VA.R. 1406	3/5/08
18 VAC 85-101-25	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-40	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-50	Amended	24:20 VA.R. 2879	7/24/08
18 VAC 85-101-55	Added	24:20 VA.R. 2880	7/24/08
18 VAC 85-101-60	Amended	24:20 VA.R. 2880	7/24/08
18 VAC 85-101-70	Repealed	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-145	Amended	24:24 VA.R. 3368	9/3/08
18 VAC 85-101-150	Amended	24:20 VA.R. 2881	7/24/08
18 VAC 85-101-153	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-110 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-110-35	Amended	24:11 VA.R. 1407	3/5/08
18 VAC 85-110-145	Amended	24:24 VA.R. 3369	9/3/08
18 VAC 85-110-161	Added	24:11 VA.R. 1407	3/5/08
18 VAC 85-120 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-120-10	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-50	Amended	24:20 VA.R. 2884	7/24/08
18 VAC 85-120-70	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-85	Amended	24:24 VA.R. 3369	9/3/08
18 VAC 85-120-90	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-95	Added	24:20 VA.R. 2885	7/24/08
18 VAC 85-120-150	Amended	24:20 VA.R. 2885	7/24/08
18 VAC 85-130 (Forms)	Amended	24:26 VA.R. 3823	--
18 VAC 85-130-30	Amended	24:14 VA.R. 1952	4/16/08
18 VAC 90-10-10 through 18 VAC 90-10-120	Repealed	24:25 VA.R. 3635	9/17/08
18 VAC 90-11-10 through 18 VAC 90-11-110	Added	24:25 VA.R. 3636-3639	9/17/08
18 VAC 90-20 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-20-10	Amended	24:13 VA.R. 1842	4/2/08
18 VAC 90-20-35	Amended	24:13 VA.R. 1843	4/2/08
18 VAC 90-20-40 through 18 VAC 90-20-60	Amended	24:13 VA.R. 1843-1845	4/2/08
18 VAC 90-20-65	Repealed	24:13 VA.R. 1844	4/2/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-20-70	Amended	24:13 VA.R. 1844	4/2/08
18 VAC 90-20-90	Amended	24:13 VA.R. 1845	4/2/08
18 VAC 90-20-95	Amended	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-96	Added	24:13 VA.R. 1846	4/2/08
18 VAC 90-20-110 through 18 VAC 90-20-140	Amended	24:13 VA.R. 1846-1848	4/2/08
18 VAC 90-20-151	Added	24:13 VA.R. 1848	4/2/08
18 VAC 90-20-160	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-190	Amended	24:13 VA.R. 1849	4/2/08
18 VAC 90-20-200	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-220	Amended	24:13 VA.R. 1850	4/2/08
18 VAC 90-20-230	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-271	Amended	24:21 VA.R. 2969	7/23/08
18 VAC 90-20-275	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-280	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-300	Amended	24:13 VA.R. 1851	4/2/08
18 VAC 90-20-370	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-390	Amended	24:13 VA.R. 1852	4/2/08
18 VAC 90-20-410	Amended	24:13 VA.R. 1853	4/2/08
18 VAC 90-25 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-30 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-30-10	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-10	Amended	25:5 VA.R. 1111	12/25/08
18 VAC 90-30-20	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-30	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-80	Erratum	24:18 VA.R. 2731-2732	--
18 VAC 90-30-80	Amended	24:24 VA.R. 3369	9/3/08
18 VAC 90-30-80	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-85	Amended	25:5 VA.R. 1112	12/25/08
18 VAC 90-30-100	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-105	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-110	Amended	25:5 VA.R. 1113	12/25/08
18 VAC 90-30-120	Amended	24:10 VA.R. 1288	2/20/08
18 VAC 90-30-120	Amended	25:5 VA.R. 1114	12/25/08
18 VAC 90-30-121	Added	24:10 VA.R. 1289	2/20/08
18 VAC 90-30-121	Amended	25:5 VA.R. 1114	12/25/08
18 VAC 90-30-160	Amended	24:24 VA.R. 3370	9/3/08
18 VAC 90-30-220	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-30-230	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-40 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-40-10	Amended	25:5 VA.R. 1115	12/25/08
18 VAC 90-40-20	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-40	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-50	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-55	Amended	25:5 VA.R. 1116	12/25/08
18 VAC 90-40-60	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-90	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-100	Amended	25:5 VA.R. 1117	12/25/08
18 VAC 90-40-121	Added	25:5 VA.R. 1118	12/25/08
18 VAC 90-40-130	Amended	25:5 VA.R. 1118	12/25/08
18 VAC 90-40-140	Amended	25:5 VA.R. 1118	12/25/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-50 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-50-10	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-40	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-75	Amended	25:4 VA.R. 691	12/11/08
18 VAC 90-50-80	Amended	25:4 VA.R. 692	12/11/08
18 VAC 90-50-90	Amended	25:4 VA.R. 692	12/11/08
18 VAC 90-60 (Forms)	Amended	25:1 VA.R. 59	--
18 VAC 90-60-110	Amended	24:23 VA.R. 3216	9/4/08
18 VAC 95-10-10 through 18 VAC 95-10-120	Repealed	25:6 VA.R. 1338	12/24/08
18 VAC 95-11-10 through 18 VAC 95-11-110	Added	25:6 VA.R. 1338-1341	12/24/08
18 VAC 95-20 (Forms)	Amended	24:26 VA.R. 3827	--
18 VAC 95-20-80	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-20-175	Amended	24:20 VA.R. 2887	7/24/08
18 VAC 95-20-220	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-20-225	Amended	25:6 VA.R. 1341	12/24/08
18 VAC 95-20-230	Amended	24:20 VA.R. 2888	7/24/08
18 VAC 95-30 (Forms)	Amended	24:26 VA.R. 3827	--
18 VAC 95-30-40	Amended	24:16 VA.R. 2264	5/14/08
18 VAC 95-30-95	Amended	24:23 VA.R. 3219	9/4/08
18 VAC 95-30-150	Amended	24:23 VA.R. 3220	9/4/08
18 VAC 95-30-180	Amended	24:23 VA.R. 3220	9/4/08
18 VAC 100-10-10 through 18 VAC 100-10-90	Repealed	25:6 VA.R. 1342	12/24/08
18 VAC 100-11-10 through 18 VAC 100-11-110	Added	25:6 VA.R. 1342-1345	12/24/08
18 VAC 105-10-10 through 18 VAC 105-10-120	Repealed	24:26 VA.R. 3828	10/1/08
18 VAC 105-11-10 through 18 VAC 105-11-110	Added	24:26 VA.R. 3828-3831	10/1/08
18 VAC 105-20 (Forms)	Amended	24:25 VA.R. 3639	--
18 VAC 105-20-75	Amended	24:22 VA.R. 3071	8/6/08
18 VAC 110-10-10 through 18 VAC 110-10-120	Repealed	25:2 VA.R. 298	10/29/08
18 VAC 110-11-10 through 18 VAC 110-11-110	Added	25:2 VA.R. 298-301	10/29/08
18 VAC 110-20 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-20-10	Amended	24:8 VA.R. 983	1/23/08
18 VAC 110-20-20 emer	Amended	25:3 VA.R. 464	9/23/08-9/22/09
18 VAC 110-20-75	Amended	24:22 VA.R. 3071	8/6/08
18 VAC 110-20-220	Amended	25:4 VA.R. 694	12/11/08
18 VAC 110-20-230	Repealed	25:4 VA.R. 695	12/11/08
18 VAC 110-20-321	Added	24:8 VA.R. 986	1/23/08
18 VAC 110-20-411 through 18 VAC 110-20-416	Repealed	24:8 VA.R. 986-987	1/23/08
18 VAC 110-20-530	Amended	24:16 VA.R. 2265	5/14/08
18 VAC 110-30 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-30-15	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50 (Forms)	Amended	24:25 VA.R. 3640	--
18 VAC 110-50-10	Amended	24:10 VA.R. 1290	2/20/08
18 VAC 110-50-20 emer	Amended	25:3 VA.R. 466	9/23/08-9/22/09
18 VAC 110-50-160	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-170	Added	24:10 VA.R. 1291	2/20/08
18 VAC 110-50-180	Added	24:10 VA.R. 1292	2/20/08
18 VAC 110-50-190	Added	24:10 VA.R. 1292	2/20/08
18 VAC 112-10-10 through 18 VAC 112-10-120	Repealed	25:1 VA.R. 61	10/15/08
18 VAC 112-11-10 through 18 VAC 112-11-110	Added	25:1 VA.R. 62-64	10/15/08
18 VAC 112-20 (Forms)	Amended	24:26 VA.R. 3831	--
18 VAC 112-20-81 emer	Added	25:3 VA.R. 467	11/1/07-4/29/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 112-20-90 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-130 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-131 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 112-20-150 emer	Amended	25:3 VA.R. 467	11/1/07-4/29/09
18 VAC 115-10-10 through 18 VAC 115-10-120	Repealed	24:26 VA.R. 3832	10/1/08
18 VAC 115-11-10 through 18 VAC 115-11-110	Added	24:26 VA.R. 3832-3835	10/1/08
18 VAC 115-20 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-20-10	Amended	24:24 VA.R. 3387	9/3/08
18 VAC 115-20-45	Amended	24:24 VA.R. 3387	9/3/08
18 VAC 115-20-49	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-51	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-52	Amended	24:24 VA.R. 3388	9/3/08
18 VAC 115-20-120	Repealed	24:24 VA.R. 3390	9/3/08
18 VAC 115-30 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-30-150	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-30-160	Amended	24:14 VA.R. 1953	4/16/08
18 VAC 115-40 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-50 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-50-10	Amended	24:24 VA.R. 3390	9/3/08
18 VAC 115-50-40	Amended	24:24 VA.R. 3390	9/3/08
18 VAC 115-50-55	Amended	24:24 VA.R. 3391	9/3/08
18 VAC 115-50-60	Amended	24:24 VA.R. 3391	9/3/08
18 VAC 115-60 (Forms)	Amended	25:1 VA.R. 65	--
18 VAC 115-60-10	Amended	24:24 VA.R. 3392	9/3/08
18 VAC 115-60-50	Amended	24:24 VA.R. 3393	9/3/08
18 VAC 115-60-70	Amended	24:24 VA.R. 3393	9/3/08
18 VAC 115-60-80	Amended	24:24 VA.R. 3394	9/3/08
18 VAC 120-10-100 through 18 VAC 120-10-180	Repealed	24:26 VA.R. 3835	10/2/08
18 VAC 120-11-10 through 18 VAC 120-11-110	Added	24:26 VA.R. 3836-3838	10/2/08
18 VAC 125-10-10 through 18 VAC 125-10-120	Repealed	25:4 VA.R. 699	11/26/08
18 VAC 125-11-10 through 18 VAC 125-11-110	Added	25:4 VA.R. 699-702	11/26/08
18 VAC 125-20 (Forms)	Amended	25:1 VA.R. 66	--
18 VAC 125-20-170	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 125-30 (Forms)	Amended	25:1 VA.R. 66	--
18 VAC 125-30-120	Amended	24:12 VA.R. 1471	3/19/08
18 VAC 130-10-10 through 18 VAC 130-10-90	Repealed	25:6 VA.R. 1345	12/24/08
18 VAC 130-11-10 through 18 VAC 130-11-110	Added	25:6 VA.R. 1345-1348	12/24/08
18 VAC 130-20-10	Amended	24:23 VA.R. 3225	9/1/08
18 VAC 130-20-70	Amended	24:23 VA.R. 3229	9/1/08
18 VAC 130-20-180	Amended	24:23 VA.R. 3229	9/1/08
18 VAC 130-20-200	Amended	24:23 VA.R. 3231	9/1/08
18 VAC 130-20-230	Amended	24:23 VA.R. 3231	9/1/08
18 VAC 135-10-10 through 18 VAC 135-10-90	Repealed	25:6 VA.R. 1348	12/24/08
18 VAC 135-11-10 through 18 VAC 135-11-110	Added	25:6 VA.R. 1348-1351	12/24/08
18 VAC 135-20-10	Amended	24:11 VA.R. 1408	4/1/08
18 VAC 135-20-30	Amended	24:11 VA.R. 1409	4/1/08
18 VAC 135-20-60	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-100	Amended	24:11 VA.R. 1410	4/1/08
18 VAC 135-20-101	Added	24:11 VA.R. 1412	4/1/08
18 VAC 135-20-105	Amended	24:11 VA.R. 1413	4/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 135-20-160	Amended	24:11 VA.R. 1413	4/1/08
18 VAC 135-20-170	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-180	Amended	24:11 VA.R. 1414	4/1/08
18 VAC 135-20-190	Amended	24:11 VA.R. 1416	4/1/08
18 VAC 135-20-210	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-220	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-280	Amended	24:11 VA.R. 1417	4/1/08
18 VAC 135-20-300	Amended	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-345	Added	24:11 VA.R. 1418	4/1/08
18 VAC 135-20-360	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-370	Amended	24:11 VA.R. 1419	4/1/08
18 VAC 135-20-390	Amended	24:11 VA.R. 1420	4/1/08
18 VAC 135-60-60	Amended	24:9 VA.R. 1230	3/1/08
18 VAC 140-10-10 through 18 VAC 140-10-120	Repealed	24:25 VA.R. 3641	9/17/08
18 VAC 140-11-10 through 18 VAC 140-11-110	Added	24:25 VA.R. 3641-3644	9/17/08
18 VAC 140-20 (Forms)	Amended	25:1 VA.R. 67	--
18 VAC 140-20-10	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-40	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-50	Amended	24:23 VA.R. 3234	9/4/08
18 VAC 140-20-50	Amended	25:4 VA.R. 703	11/26/08
18 VAC 140-20-51	Added	25:4 VA.R. 705	11/26/08
18 VAC 140-20-60	Amended	25:4 VA.R. 705	11/26/08
18 VAC 140-20-70	Amended	24:23 VA.R. 3235	9/4/08
18 VAC 140-20-105	Amended	24:20 VA.R. 2890	7/24/08
18 VAC 140-20-105	Amended	25:4 VA.R. 706	11/26/08
18 VAC 140-20-140	Repealed	25:4 VA.R. 707	11/26/08
18 VAC 140-20-150	Amended	25:4 VA.R. 707	11/26/08
18 VAC 140-20-160	Amended	25:4 VA.R. 709	11/26/08
18 VAC 145-10-10 through 18 VAC 145-10-90	Repealed	25:6 VA.R. 1351	12/24/08
18 VAC 145-11-10 through 18 VAC 145-11-110	Added	25:6 VA.R. 1352-1355	12/24/08
18 VAC 150-10-10 through 18 VAC 150-10-120	Repealed	25:1 VA.R. 68	10/15/08
18 VAC 150-11-10 through 18 VAC 150-11-110	Added	25:1 VA.R. 68-71	10/15/08
18 VAC 150-20 (Forms)	Amended	24:26 VA.R. 3838	--
18 VAC 150-20-135	Amended	24:21 VA.R. 2969	7/23/08
18 VAC 155-10-5 through 18 VAC 155-10-80	Repealed	25:6 VA.R. 1355	12/24/08
18 VAC 155-11-10 through 18 VAC 155-11-110	Added	25:6 VA.R. 1355-1358	12/24/08
18 VAC 160-10-10 through 18 VAC 160-10-90	Repealed	25:4 VA.R. 709	11/26/08
18 VAC 160-11-10 through 18 VAC 160-11-110	Added	25:4 VA.R. 709-712	11/26/08
Title 19. Public Safety			
19 VAC 15-10-10 through 19 VAC 15-10-50	Repealed	25:5 VA.R. 1118	12/10/08
19 VAC 15-11-10 through 19 VAC 15-11-110	Added	25:5 VA.R. 1119-1121	12/10/08
19 VAC 30-10-10 through 19 VAC 30-10-40	Repealed	24:26 VA.R. 3839	10/1/08
19 VAC 30-11-10 through 19 VAC 30-11-110	Added	24:26 VA.R. 3839-3842	10/1/08
19 VAC 30-20-115	Added	24:11 VA.R. 1421	3/6/08
19 VAC 30-70-6	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-7	Amended	24:8 VA.R. 988	3/1/08
19 VAC 30-70-9	Amended	24:8 VA.R. 989	3/1/08
19 VAC 30-70-10	Amended	24:8 VA.R. 991	3/1/08
19 VAC 30-70-40	Amended	24:8 VA.R. 994	3/1/08
19 VAC 30-70-50	Amended	24:8 VA.R. 995	3/1/08
19 VAC 30-70-60	Amended	24:8 VA.R. 997	3/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
19 VAC 30-70-80	Amended	24:8 VA.R. 998	3/1/08
19 VAC 30-70-90	Amended	24:8 VA.R. 1001	3/1/08
19 VAC 30-70-110 through 19 VAC 30-70-660	Amended	24:8 VA.R. 1001-1070	3/1/08
19 VAC 30-190-10 through 19 VAC 30-190-140	Added	24:11 VA.R. 1421-1423	3/6/08
Title 20. Public Utilities and Telecommunications			
20 VAC 5-312-10	Amended	25:8 VA.R. 1534	1/1/09
20 VAC 5-312-20	Amended	25:8 VA.R. 1535	1/1/09
20 VAC 5-312-60	Amended	25:8 VA.R. 1537	1/1/09
20 VAC 5-312-80	Amended	25:8 VA.R. 1538	1/1/09
20 VAC 5-312-90	Amended	25:8 VA.R. 1540	1/1/09
20 VAC 5-312-120	Repealed	25:8 VA.R. 1542	1/1/09
20 VAC 5-313-10	Amended	25:8 VA.R. 1543	1/1/09
20 VAC 5-313-20	Amended	25:8 VA.R. 1543	1/1/09
20 VAC 5-313-30	Repealed	25:8 VA.R. 1544	1/1/09
20 VAC 5-315-10	Amended	24:26 VA.R. 3845	8/25/08
20 VAC 5-315-20	Amended	24:26 VA.R. 3845	8/25/08
20 VAC 5-315-40	Amended	24:26 VA.R. 3846	8/25/08
20 VAC 5-315-50	Amended	24:26 VA.R. 3847	8/25/08
20 VAC 5-414-10 through 20 VAC 5-414-70	Added	25:7 VA.R. 1437-1438	12/1/08
Title 21. Securities and Retail Franchising			
21 VAC 5-20-280	Amended	24:21 VA.R. 2971	7/1/08
21 VAC 5-80-10	Amended	24:21 VA.R. 2976	7/1/08
21 VAC 5-80-200	Amended	24:21 VA.R. 2977	7/1/08
21 VAC 5-110-10	Amended	24:21 VA.R. 2983	7/1/08
21 VAC 5-110-20	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-30	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-40	Amended	24:21 VA.R. 2984	7/1/08
21 VAC 5-110-50	Amended	24:21 VA.R. 2985	7/1/08
21 VAC 5-110-55	Added	24:21 VA.R. 2985	7/1/08
21 VAC 5-110-60	Amended	24:21 VA.R. 2986	7/1/08
21 VAC 5-110-65	Amended	24:21 VA.R. 2987	7/1/08
21 VAC 5-110-70	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-75	Amended	24:21 VA.R. 2988	7/1/08
21 VAC 5-110-80	Amended	24:21 VA.R. 2989	7/1/08
21 VAC 5-110-90	Repealed	24:21 VA.R. 2992	7/1/08
21 VAC 5-110-95	Added	24:21 VA.R. 2992	7/1/08
Title 22. Social Services			
22 VAC 5-10-10 through 22 VAC 5-10-110	Repealed	25:5 VA.R. 1122	1/1/09
22 VAC 5-11-10 through 22 VAC 5-11-110	Added	25:5 VA.R. 1122-1125	1/1/09
22 VAC 5-30-10 through 22 VAC 5-30-60	Added	24:25 VA.R. 3665-3669	1/1/09
22 VAC 15-10-10 through 22 VAC 15-10-70	Repealed	25:4 VA.R. 712	1/1/09
22 VAC 15-11-10 through 22 VAC 15-11-110	Added	25:4 VA.R. 713-715	1/1/09
22 VAC 15-30-310	Amended	24:10 VA.R. 1295	3/6/08
22 VAC 20-10-10 through 22 VAC 20-10-100	Repealed	25:7 VA.R. 1438	1/7/09
22 VAC 20-11-10 through 22 VAC 20-11-110	Added	25:7 VA.R. 1439-1441	1/7/09
22 VAC 27-10-10 through 22 VAC 27-10-110	Added	25:7 VA.R. 1442-1445	1/7/09
22 VAC 30-10-10	Amended	24:22 VA.R. 3076	8/8/08
22 VAC 30-10-10	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-20	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-20	Repealed	25:1 VA.R. 71	10/15/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 30-10-40	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-40	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-50	Amended	24:22 VA.R. 3077	8/8/08
22 VAC 30-10-50	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-10-60	Repealed	25:1 VA.R. 71	10/15/08
22 VAC 30-11-10 through 22 VAC 30-11-110	Added	25:1 VA.R. 72-74	10/15/08
22 VAC 40-11-10 through 22 VAC 40-11-70	Repealed	25:1 VA.R. 74	1/1/09
22 VAC 40-12-10 through 22 VAC 40-12-110	Added	25:1 VA.R. 74-78	1/1/09
22 VAC 40-72-10	Amended	25:8 VA.R. 1592	2/5/09
22 VAC 40-72-30	Repealed	25:8 VA.R. 1598	2/5/09
22 VAC 40-72-50	Amended	25:8 VA.R. 1598	2/5/09
22 VAC 40-72-90	Amended	25:8 VA.R. 1599	2/5/09
22 VAC 40-72-100	Amended	25:8 VA.R. 1600	2/5/09
22 VAC 40-72-150	Amended	25:8 VA.R. 1600	2/5/09
22 VAC 40-72-190	Repealed	25:8 VA.R. 1600	2/5/09
22 VAC 40-72-191	Added	25:8 VA.R. 1601	2/5/09
22 VAC 40-72-200	Repealed	25:8 VA.R. 1601	2/5/09
22 VAC 40-72-201	Added	25:8 VA.R. 1602	2/5/09
22 VAC 40-72-210	Amended	25:8 VA.R. 1603	2/5/09
22 VAC 40-72-220	Amended	25:8 VA.R. 1603	2/5/09
22 VAC 40-72-230	Amended	25:8 VA.R. 1605	2/5/09
22 VAC 40-72-260	Amended	25:8 VA.R. 1606	2/5/09
22 VAC 40-72-290	Amended	25:8 VA.R. 1606	2/5/09
22 VAC 40-72-340	Amended	25:8 VA.R. 1607	2/5/09
22 VAC 40-72-390	Amended	25:8 VA.R. 1609	2/5/09
22 VAC 40-72-420	Amended	25:8 VA.R. 1610	2/5/09
22 VAC 40-72-430	Amended	25:8 VA.R. 1610	2/5/09
22 VAC 40-72-440	Amended	25:8 VA.R. 1611	2/5/09
22 VAC 40-72-630	Amended	25:8 VA.R. 1612	2/5/09
22 VAC 40-72-660	Amended	25:8 VA.R. 1613	2/5/09
22 VAC 40-72-670	Amended	25:8 VA.R. 1613	2/5/09
22 VAC 40-72-910	Amended	25:8 VA.R. 1615	2/5/09
22 VAC 40-72-920	Amended	25:8 VA.R. 1615	2/5/09
22 VAC 40-72-930	Amended	25:8 VA.R. 1615	2/5/09
22 VAC 40-72-950	Amended	25:8 VA.R. 1616	2/5/09
22 VAC 40-72-960	Amended	25:8 VA.R. 1616	2/5/09
22 VAC 40-72-970	Amended	25:8 VA.R. 1617	2/5/09
22 VAC 40-72-1010	Amended	25:8 VA.R. 1617	2/5/09
22 VAC 40-72-1120	Amended	25:8 VA.R. 1618	2/5/09
22 VAC 40-151-10 through 22 VAC 40-151-1020	Added	25:3 VA.R. 482-512	1/1/09
22 VAC 40-470-10	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-685-30	Amended	24:9 VA.R. 1231	2/6/08
22 VAC 40-690-20	Amended	24:24 VA.R. 3420	10/1/08
22 VAC 40-690-30	Amended	24:24 VA.R. 3420	10/1/08
22 VAC 40-690-40	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-690-55	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-690-65	Amended	24:24 VA.R. 3421	10/1/08
22 VAC 40-705-10 emer	Amended	24:14 VA.R. 1987	3/1/08-2/28/09
22 VAC 40-705-30 emer	Amended	24:14 VA.R. 1990	3/1/08-2/28/09
22 VAC 45-11-10 through 22 VAC 45-11-90	Repealed	25:5 VA.R. 1125	12/1/08
22 VAC 45-12-10 through 22 VAC 45-12-110	Added	25:5 VA.R. 1125-1128	12/1/08

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 23. Taxation			
23 VAC 10-10-10 through 23 VAC 10-10-80	Amended	24:12 VA.R. 1520-1521	4/19/08
23 VAC 10-10-10 through 23 VAC 10-10-80	Repealed	25:4 VA.R. 730	1/10/09***
23 VAC 10-10-90	Repealed	24:12 VA.R. 1522	4/19/08
23 VAC 10-11-10 through 23 VAC 10-11-110	Added	25:4 VA.R. 732-735	1/10/09***
23 VAC 10-20-155	Added	24:26 VA.R. 3848	10/1/08
23 VAC 10-20 (Forms)	Amended	25:5 VA.R. 1128	--
23 VAC 10-20-160	Amended	25:8 VA.R. 1620	3/8/09
23 VAC 10-20-165	Added	25:8 VA.R. 1622	3/8/09
23 VAC 10-20-170	Repealed	25:8 VA.R. 1627	3/8/09
23 VAC 10-20-180	Amended	25:8 VA.R. 1628	3/8/09
23 VAC 10-20-190	Amended	25:8 VA.R. 1628	3/8/09
23 VAC 10-55 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-60 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-65 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-75 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-210 (Forms)	Amended	25:6 VA.R. 1358	--
23 VAC 10-210-20	Repealed	24:26 VA.R. 3849	10/1/08
23 VAC 10-210-170	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-210-595	Added	25:4 VA.R. 736	11/26/08
23 VAC 10-210-693	Amended	24:23 VA.R. 3240	10/6/08
23 VAC 10-210-870	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-210-4010	Repealed	25:4 VA.R. 736	11/26/08
23 VAC 10-210-6060	Amended	25:8 VA.R. 1632	3/8/09
23 VAC 10-220 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-230 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-230-20	Amended	25:8 VA.R. 1633	3/8/09
23 VAC 10-230-30	Amended	25:8 VA.R. 1633	3/8/09
23 VAC 10-230-40	Amended	25:8 VA.R. 1635	3/8/09
23 VAC 10-230-70	Added	25:8 VA.R. 1637	3/8/09
23 VAC 10-230-75	Added	25:8 VA.R. 1637	3/8/09
23 VAC 10-230-80	Amended	25:8 VA.R. 1637	3/8/09
23 VAC 10-230-90	Amended	25:8 VA.R. 1638	3/8/09
23 VAC 10-230-110	Amended	25:8 VA.R. 1639	3/8/09
23 VAC 10-230-120	Amended	25:8 VA.R. 1639	3/8/09
23 VAC 10-240 (Forms)	Amended	25:6 VA.R. 1359	--
23 VAC 10-300 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-310 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-330 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-350 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-370 (Forms)	Amended	25:5 VA.R. 1129	--
23 VAC 10-390 (Forms)	Amended	25:5 VA.R. 1130	--
23 VAC 10-500-10 through 23 VAC 10-500-820	Added	24:23 VA.R. 3253-3289	10/6/08
Title 24. Transportation and Motor Vehicles			
24 VAC 20-10-10 through 24 VAC 20-10-140	Repealed	25:6 VA.R. 1360	12/24/08
24 VAC 20-11-10 through 24 VAC 20-11-110	Added	25:6 VA.R. 1361-1364	12/24/08
24 VAC 22-10-10 through 24 VAC 22-10-140	Repealed	25:4 VA.R. 752	11/26/08
24 VAC 22-11-10 through 24 VAC 22-11-110	Added	25:4 VA.R. 753-755	11/26/08

*** See erratum (25:6 VA.R. 1375) for effective date

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
24 VAC 25-5-10 through 24 VAC 25-5-110	Added	25:7 VA.R. 1445-1448	1/7/09
24 VAC 25-10-10	Repealed	25:3 VA.R. 519	10/13/08
24 VAC 25-20-10	Repealed	25:3 VA.R. 519	10/13/08
24 VAC 27-10-10 through 24 VAC 27-10-120	Repealed	25:6 VA.R. 1364	12/24/08
24 VAC 27-11-10 through 24 VAC 27-11-110	Added	25:6 VA.R. 1364-1367	12/24/08
24 VAC 27-30-10 through 24 VAC 27-30-190	Added	25:1 VA.R. 78-89	10/15/08
24 VAC 30-10-10 through 24 VAC 30-10-70	Repealed	25:6 VA.R. 1367	12/24/08
24 VAC 30-11-10 through 24 VAC 30-11-110	Added	25:6 VA.R. 1367-1370	12/24/08
24 VAC 30-16-10	Repealed	25:3 VA.R. 520	11/12/08
24 VAC 30-72-10 through 24 VAC 30-72-170	Added	24:17 VA.R. 2458-2466	7/1/08
24 VAC 30-72-30	Erratum	24:18 VA.R. 2732	--
24 VAC 30-155-10	Amended	24:23 VA.R. 3290	7/1/08
24 VAC 30-155-40	Amended	24:23 VA.R. 3291	7/1/08
24 VAC 30-155-50	Amended	24:23 VA.R. 3292	7/1/08
24 VAC 30-155-60	Amended	24:23 VA.R. 3294	7/1/08
24 VAC 30-155-70	Amended	24:23 VA.R. 3303	7/1/08
24 VAC 30-155-80	Amended	24:23 VA.R. 3303	7/1/08
24 VAC 30-380-10	Amended	25:5 VA.R. 1130	10/22/08
24 VAC 35-10-10 through 24 VAC 35-10-70	Repealed	25:5 VA.R. 1131	12/10/08
24 VAC 35-11-10 through 24 VAC 35-11-110	Added	25:5 VA.R. 1132-1134	12/10/08

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF DENTISTRY

Initial Agency Notice

Title of Regulation: 18VAC60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.

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

Name of Petitioner: Alden S. Anderson, III.

Nature of Petitioner's Request: To amend 18VAC60-20-50 to allow the Roanoke Valley Dental Society to present continuing education programs without being affiliated with local organizations to be an approved sponsor.

Agency's Plan for Disposition of Request: The board is requesting public comment on the petition to amend rules to recognize the Roanoke Valley Dental Society as a continuing education provider. Comment will be considered and a decision made on the petitioner's request at the board meeting scheduled for March 13, 2009.

Comments may be submitted until February 4, 2009.

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

VA.R. Doc. No. R09-10; Filed December 9, 2008, 3:32 p.m.

BOARD OF MEDICINE

Initial Agency Notice

Title of Regulation: 18VAC85-20. Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic.

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

Name of Petitioner: Dr. Percy Ramos.

Nature of Petitioner's Request: To amend 18VAC85-20-122 to allow practice as a medical doctor in another state with an unrestricted license for a certain number of years to be counted in lieu of one of the two years of postgraduate training for graduates of nonapproved medical schools.

Agency's Plan for Disposition of Request: The board will receive public comment on the petition for rulemaking and will consider any public comment and the petition at a meeting of the board on February 19, 2009.

Comments may be submitted until February 4, 2009.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4621, FAX (804) 527-4426, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. R09-09; Filed December 4, 2008, 2:22 p.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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 Professional and Occupational Regulation intends to consider amending the following regulations: **18VAC120-30, Regulations Governing Polygraph Examiners.** The purpose of the proposed action is to conduct a review and, where necessary, amend the regulations to reflect statutory changes, industry changes (especially those that involve technological advances in equipment and training), and changes suggested by its regulants and members of the public during the board's normal course of operations.

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

Statutory Authority: § 54.1-1801 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on February 4, 2009.

Agency Contact: Eric L. Olson, Executive Director, Polygraph Examiners Advisory Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-6166, FAX (804) 527-4401, or email polygraph@dpor.virginia.gov.

VA.R. Doc. No. R09-1751; Filed December 15, 2008, 3:10 p.m.



TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider repealing the following regulations: **24VAC35-20, Policy and Procedure Manual,** and promulgating **24VAC35-21, Policy and Procedure Manual.** The purpose of the proposed action is to promulgate a new chapter and repeal existing regulations due to extensive revisions to the Policy and Procedure Manual. The new VASAP Policy and Procedure Manual is intended to reflect the evolution of VASAP's mission and activities that has occurred over the past decade. The purpose of the new regulation is to clarify VASAP's objectives and program component areas, and to provide needed guidance

for standardization of procedures regarding ancillary programs, fiscal activities and audits, policy board operations, personnel procedures, and offender transfers. Updated definitions of terminology are provided as well.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on February 4, 2009.

Agency Contact: Richard L. Foy, Technical Instructor, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

VA.R. Doc. No. R08-733; Filed December 3, 2008, 3:15 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider repealing **24VAC35-30, VASAP Case Management Policy and Procedure Manual** and promulgating **24VAC35-31, VASAP Case Management Policy and Procedures Manual.** The purpose of the proposed action is to promulgate a new chapter to replace existing regulations due to extensive revisions to the Case Management Policy and Procedures Manual. The new manual covers the activities of VASAP case management, a probationary function of the courts comprised of referral, enrollment, intake, classification, offender intervention, case supervision/monitoring and court reporting. Case managers serve the court in coordinating the referral of the offender into appropriate community-based services pursuant to VASAP policy and procedure. Case managers and other staff may also provide noncourt related ancillary services.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on February 4, 2009.

Agency Contact: Richard L. Foy, Technical Instructor, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

VA.R. Doc. No. R08-734; Filed December 3, 2008, 3:17 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia

Alcohol Safety Action Program intends to consider repealing **24VAC35-40, Certification Requirements Manual** and promulgating **24VAC35-41, Certification Requirements Manual**. The purpose of the proposed action is to develop certification guidelines to establish and ensure the maintenance of minimum standards and criteria for program operations and performance, accounting, auditing, public information and administrative procedures for local alcohol safety action programs as required by § 18.2-271.2 of the Code of Virginia.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on February 4, 2009.

Agency Contact: Richard L. Foy, Technical Instructor, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

VA.R. Doc. No. R09-1671; Filed December 3, 2008, 3:18 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Commission on the Virginia Alcohol Safety Action Program intends to consider promulgating the following regulations: **24VAC35-50, VASAP Training and Accrediting Manual**. The purpose of the proposed action is to outline the minimum hiring standards (education, experience and job skills) for alcohol safety action program directors, case managers, facilitators, and support staff. Annual training requirements for the same employees will be covered.

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

Statutory Authority: § 18.2-271.2 of the Code of Virginia.

Public Comments: Public comments may be submitted until 5 p.m. on February 4, 2009.

Agency Contact: Richard L. Foy, Technical Instructor, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, FAX (804) 786-6286, or email rfoy.vasap@state.va.us.

VA.R. Doc. No. R09-1670; Filed December 3, 2008, 3:20 p.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: 4VAC20-1180. Pertaining to Fishing Guides (adding 4VAC20-1180-10 through 4VAC20-1180-60).

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

Effective Date: December 22, 2008.

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

Summary:

This chapter establishes provisions for the sale of fishing guide licenses, one of which is required for any charter boat or head boat captain. This chapter also establishes (i) eligibility requirements for obtaining the Class A or Class B fishing guide license or the fishing guide reciprocity permit, (ii) requirements for transferring the Class A fishing guide license, and (iii) the creation of a waiting list for applicants who have failed to qualify for the Class A fishing guide license.

CHAPTER 1180 PERTAINING TO FISHING GUIDES

4VAC20-1180-10. Purpose.

The purpose of this chapter is to establish conditional or limited sale of fishing guide licenses for effective fishery management.

4VAC20-1180-20. Definitions.

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

"Captain" means the person licensed by the U.S. Coast Guard to carry passengers for hire who operates the charter boat or head boat.

"Class A fishing guide license" means the license for charter boat or head boat operators that is restricted to those individuals who satisfy one of the conditions described in 4VAC20-1180-40 or who obtains the license through a transfer or from the waiting list described in 4VAC20-1180-50 and 4VAC20-1180-60, respectively.

"Class B fishing guide license" means the license that allows charter boat or head boat operators to fish in Virginia waters and may be obtained by anyone who is licensed by the U.S. Coast Guard to carry passengers for hire and can provide a copy of his current U.S. Coast Guard license with the application.

"Fishing guide reciprocity permit" means a cost-free permit that is required for any charter boat or head boat operator licensed as a Maryland fishing guide who fishes in Virginia waters under the Chesapeake Bay Saltwater License Reciprocity Agreement.

4VAC20-1180-30. Fishing guide license; fees.

A. Either a Class A fishing guide license or Class B fishing guide license or a fishing guide reciprocity permit shall be required for a charter boat or head boat captain operating for hire and fishing in the tidal salt waters of the Commonwealth under the jurisdiction of the commission.

B. The annual fee for the Class A fishing guide license or the Class B fishing guide license shall be \$100. Fishing guide reciprocity permits can be obtained at no cost provided the applicant furnishes copies of his Maryland fishing guide license and U.S. Coast Guard license.

C. When the same applicant purchases a Class A or Class B fishing guide license prior to purchasing one charter boat or head boat license as required by § 28.2-302.8 of the Code of Virginia, the fee for that charter boat or head boat license shall be reduced by the cost of the fishing guide license.

4VAC20-1180-40. Limited sale of the Class A fishing guide license and conditional sale of the Class B fishing guide license.

The commissioner has determined that the requirements for the fishing guide license in Maryland are substantially similar and reciprocal with the Class A fishing guide license, and the following provisions and qualifications shall define the administration of the Class A fishing guide license:

1. It shall be unlawful for any person to serve as the captain of a charter boat or head boat without first qualifying for and obtaining a Class A or Class B fishing guide license or a fishing guide reciprocity permit.

2. An applicant shall be considered qualified for the Class A fishing guide license once that applicant satisfies the following conditions:

a. The applicant shall be licensed by the U.S. Coast Guard to carry passengers for hire and shall include a copy of his current U.S. Coast Guard license with the application.

b. The applicant shall have purchased, as the licensee, a 2008 Virginia charter boat or head boat license before June 25, 2008, or shall have purchased, as the licensee, Virginia charter boat or head boat licenses in 2006 and 2007, or can document that he has served as captain of a vessel for at least 30 days from January 1, 2006, through June 24, 2008, operating in Virginia waters that was licensed as a Virginia charter boat or head boat and provides a certificate of insurance listing him as the captain of a Virginia charter boat or head boat or federal tax form W-2 or 1099, listing his income as the captain of a Virginia charter boat or head boat during the period January 1, 2006, through June 24, 2008. An additional form of documentation of the 30-day service as captain may include evidence that the applicant was enrolled during the qualifying period in a U.S. Coast Guard required random drug testing program for the business owning the qualifying vessel.

3. A Class A fishing guide licensee shall be required to purchase a Class A fishing guide license annually to maintain his eligibility to purchase a Class A fishing guide license for the following year.

4. The number of Class A fishing guide licenses sold in any one year shall not exceed the number of persons meeting the qualifications specified in this section.

5. An applicant shall be considered qualified for the Class B fishing guide license once he provides documentation that he is licensed by the U.S. Coast Guard to carry passengers for hire and can provide a copy of his current U.S. Coast Guard license with the application.

4VAC20-1180-50. Transfers of a Class A fishing guide license.

A. A Class A fishing guide license may be transferred from the current licensee to another person with the approval of the commissioner. Transfers may be temporary or permanent. A temporary transfer shall authorize the person replacing the original Class A fishing guide licensee to serve as a fishing guide from the date of the transfer to the end of the license year, and following that time period, the original Class A fishing guide licensee shall retain eligibility for a fishing

guide license. A permanent transfer authorizes the person replacing the original licensee to serve as a fishing guide for as long as he continues to qualify for the license, and the original licensee shall lose his eligibility for a Class A fishing guide license in future years.

B. No transfer of a Class A fishing guide license from a resident to a nonresident or nonresident to resident shall be approved.

4VAC20-1180-60. Waiting list.

A. Effective January 1, 2009, the commission shall create a list of applicants who have failed to qualify for the Class A fishing guide license. Persons may be placed upon the list in the order of receipt of their application, except that any person who cannot document that he is currently licensed by the U.S. Coast Guard to carry passengers for hire shall not be placed on the waiting list.

B. In the event the number of Class A fishing guide licenses in any year is less than the maximum number of licenses authorized by subdivision 4 of 4VAC20-1180-40, the vacant licenses may be filled by persons from the waiting list in their order of listing.

VA.R. Doc. No. R09-1743; Filed December 17, 2008, 3:51 p.m.



TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Final Regulation

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

Titles of Regulations: 9VAC20-10. Public Participation Guidelines (repealing 9VAC20-10-10 through 9VAC20-10-40).

9VAC20-11. Public Participation Guidelines (adding 9VAC20-11-10 through 9VAC20-11-110).

Statutory Authority: §§ 2.2-4007.02 and 10.1-1402 of the Code of Virginia.

Effective Date: February 4, 2009.

Agency Contact: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, or email cmberndt@deq.virginia.gov.

Regulations

Summary:

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

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

CHAPTER 11 PUBLIC PARTICIPATION GUIDELINES

Part I Purpose and Definitions

9VAC20-11-10. Purpose.

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

9VAC20-11-20. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part II
Notification of Interested Persons

9VAC20-11-30. Notification list.

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

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

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

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

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

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

9VAC20-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 9VAC20-11-30, the agency shall send the following information:

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

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

Part III
Public Participation Procedures

9VAC20-11-50. Public comment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9VAC20-11-60. Petition for rulemaking.

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

Regulations

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

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

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

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

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

9VAC20-11-70. Appointment of regulatory advisory panel.

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

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

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

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

9VAC20-11-80. Appointment of negotiated rulemaking panel.

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

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

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

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

9VAC20-11-90. Meetings.

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

9VAC20-11-100. Public hearings on regulations.

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

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

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

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

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

9VAC20-11-110. Periodic review of regulations.

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

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

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

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

VA.R. Doc. No. R09-1445; Filed December 9, 2008, 1:58 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Proposed Regulation

REGISTRAR'S NOTICE: The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 2.2-4006 A 9 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, if the board (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: **9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining (amending 9VAC25-190-10, 9VAC25-190-20, 9VAC25-190-50, 9VAC25-190-60, 9VAC25-190-70).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

Public Hearing Information:

February 4, 2009 - 10 a.m. - Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA

Public Comments: Public comments may be submitted until 5 p.m. on March 6, 2009.

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

Anyone wishing to submit written comments for the public comment file may do so at the public hearing or by mail, email or fax to George Cosby, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, email gecosby@deq.virginia.gov. Comments may also be submitted through the public forum feature of the Virginia Regulatory Town Hall website at www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by 5 p.m. on the date established as the close of the comment period.

Agency Contact: George Cosby, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, or email gecosby@deq.virginia.gov.

Summary:

The proposed regulation sets forth standard language for effluent limitations and monitoring requirements necessary to regulate the discharge of wastewater from nonmetallic mineral mining. The existing general permit expires on June 30, 2009. The general permit is being reissued in order to continue making it available for nonmetallic mineral mining operations after that date.

Changes are proposed based on recommendations of the technical advisory committee and the EPA 2008 Multisector General Permit (MSGP). Proposed revisions include the addition of language defining vehicle and equipment washing and the addition of provisions concerning the discharge to waters where a total maximum daily load has been developed and approved by the U.S. Environmental Protection Agency.

9VAC25-190-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-10 et seq.) unless the context clearly indicates otherwise. Additionally, for the purposes of this chapter:

~~"Co-located~~ **"Colocated** facility" means an industrial activity other than mineral mining operating on a site where the primary industrial activity is mineral mining. Such an activity must have wastewater characteristics similar to those of the mineral mine and be located within the permitted mining area. The term refers to activities that are commonly found at mining sites such as manufacturing of ready-mix concrete (SIC Code 3273), concrete products (SIC Codes 3271 and 3272), and asphalt paving materials (SIC Code 2951) except asphalt emulsion manufacturing. It does not mean industrial activity that is specifically excluded from this permit.

Regulations

"Industrial activity" means activity associated with mineral mining facilities generally identified by SIC Major Group 14 including active or inactive mining operations that discharge storm water that has come into contact with any overburden, raw material, intermediate products, finished products, by-products or waste products located on the site of such operations. (Inactive mining operations are mining sites that are not being actively mined, but which have an identifiable owner/operator; inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.) Industrial activity also includes facilities classified under other SIC codes that may be colocated within the mineral mine permit area, unless they are expressly excluded by this general permit.

"Permittee" means the owner of a nonmetallic mineral mine covered under this general permit.

"Process wastewater" means any wastewater used in the slurry transport of mined material, air emissions control, or processing exclusive of mining, and any other water that becomes commingled with such wastewater in a pit, pond, lagoon, mine, or other facility used for treatment of such wastewater. It includes mine pit dewatering, water used in the process of washing stone, noncontact cooling water, wastewater from vehicle/equipment washing activities, return water from operations where mined material is dredged and miscellaneous plant cleanup wastewaters.

"Run-off coefficient" means the fraction of total rainfall that will appear at the conveyance as run-off.

"SIC" means the Standard Industrial Classification Code or Industrial Grouping from the U.S. Office of Management and Budget Standard Industrial Classification Manual, 1987 Edition.

"Significant materials" includes, but is not limited to, raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 USC § 9601 et seq.); any chemical the owner is required to report pursuant to Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) (42 USC § 11001 et seq.); fertilizers; pesticides; and waste products such as ashes, slag and sludge (including pond sediments) that have the potential to be released with storm water discharges.

"Storm water" means storm water run-off, snow melt run-off, and surface run-off and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for

collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under ~~9VAC25-31-10 et seq~~ 9VAC25-31. For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the mineral mine; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

"Vehicle/equipment washing" means the washing with detergents or steam cleaning of engines and other drive components in which the purpose is to clean and degrease the equipment for maintenance and other purposes. The application of water without detergent to a vehicle exterior for the purpose of removing sediment is excluded.

9VAC25-190-20. Purpose; delegation of authority; effective date of permit.

A. The purpose of this chapter is to establish General Permit Number VAG84 to regulate wastewater discharge from nonmetallic mineral mines as follows:

1. For active and inactive nonmetallic mineral mining facilities in SIC Major Group 14, this general permit covers discharges composed entirely of storm water associated with industrial activity.
2. This general permit authorizes the discharge of process wastewater as well as storm water associated with industrial activity from active and inactive mineral mines classified under Standard Industrial Classification Codes 1411, 1422, 1423, 1429, 1442, 1455, 1459 excluding bentonite and magnesite mines, 1475, and 1499 excluding gypsum, graphite, asbestos, diatomite, jade, novaculite, wollastonite, tripoli or asphaltic mineral mines.
3. Coal mining, metal mining, and oil and gas extraction are not covered by this general permit.

B. The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on ~~July 1, 2004~~ July 1, 2009, and will expire five years after the effective date. For any covered owner, this general permit is effective upon compliance with all the provisions of 9VAC25-190-50 and the receipt of this general permit.

9VAC25-190-50. Authorization to discharge.

A. Any owner governed by this general permit is authorized by this to discharge to surface waters of the Commonwealth of Virginia provided that the owner files a registration statement as described in 9VAC25-190-60 that is accepted by the board, files the required permit fee, complies with the effluent limitations and other requirements of 9VAC25-190-70, and provided that:

1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES permit regulation (~~9VAC25-31-10 et seq.~~; 9VAC25-31).
2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges;
3. The owner shall have a mineral mining permit for the operation to be covered by this general permit which has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program, locality or state agency) under provisions and requirements of Title 45.1 of the Code of Virginia. Mineral mines located in bordering states with discharges in Virginia shall provide documentation that they have a mining permit from the appropriate state authority. Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement; ~~and~~
4. The owner shall implement pollution control measures necessary to comply with the conditions and limitations of this general permit including, but not limited to, the installation, operation and maintenance of sediment control structures.
5. The owner shall not be authorized by this general permit to discharge to waters for which a "total maximum daily load" (TMDL) allocation has been established by the board and approved by EPA prior to the term of this permit, unless the owner develops, implements and maintains a storm water pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements of the TMDL. This only applies where the facility is an identified source of the TMDL pollutant of concern. The SWPPP shall specifically address any conditions or requirements

included in the TMDL that are applicable that applies to discharges from the facility, the owner shall incorporate that allocation into the facility's SWPPP and implement measures necessary to meet that allocation.

B. The board shall deny coverage under this general permit to any owner with discharge or storm water discharge-related activities which the board determines cause, may reasonably be expected to cause, or may be contributing to a violation of water quality standards, including discharges or discharge-related activities that are likely to adversely affect aquatic life.

C. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9VAC25-190-60. Registration statement.

The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for nonmetallic mineral mining. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for operation of the mineral mine. Any owner of an existing mineral mine covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing mineral mine covered by the general VPDES permit for nonmetallic mineral mining that became effective on June 30, 1999, who wishes to remain covered by this general permit shall file a new registration statement in accordance with the general permit requirements in order to avoid a lapse in coverage. Any owner of an existing mineral mine not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

1. Facility name, owner, mailing address, email address and telephone number;
2. Project name, county, ~~and~~ location, latitude and longitude;
3. Description of mining activity;
4. Primary and secondary SIC codes;
5. Discharge information including:
 - a. A list of outfalls identified by outfall numbers;
 - b. Characterization of the type of each listed outfall's discharge as either process wastewater, storm water, or process wastewater commingled with storm water;
 - c. Characterization of the source of each listed outfall's discharge as either mine pit dewatering, storm water associated with industrial activity (see definition in

Regulations

9VAC25-115-10), storm water not associated with industrial activity, ground water infiltration, wastewater from vehicle and/or equipment washing activities, mined material washing, noncontact cooling water, miscellaneous plant cleanup wastewater, ~~co-located~~ colocated facility discharges (identify the co-located facility), other discharges not listed here (describe), or any combination of the above; ₁

d. The receiving stream for each outfall listed; ₁

e. The latitude and longitude for each outfall listed; and

f. Indicate which storm water outfalls will be representative outfalls that require a single Discharge Monitoring Report (DMR). For storm water outfalls that are to be represented by other outfall discharges, provide a description of the activities associated with those outfalls and explain why they are substantially the same as the representative outfall to be sampled;

6. Indicate if the facility has a current VPDES permit and the permit number if it does;

7. Description of wastewater treatment or reuse/recycle systems or both;

8. List of any chemicals added to water that could be discharged;

9. List of ~~co-located~~ colocated facilities;

10. Indicate if the facility is a hazardous waste treatment, storage or disposal facility;

11. Schematic drawing showing water flow from source to water-using industrial operations to waste treatment and disposal, and disposal of any solids removed from wastewater;

12. Aerial photo or scale map that clearly shows the property boundaries, plant site, drainage areas associated with each outfall, locations of all mine pit dewatering, existing, significant sources of materials exposed to precipitation, storm water or process wastewater outfalls and the receiving streams;

13. Evidence that the operation to be covered by this general permit has a mining permit that has been approved by the Virginia Department of Mines, Minerals and Energy, Division of Mineral Mining (or associated waived program) under the provisions and requirements of Title 45.1 of the Code of Virginia (or appropriate bordering state authorization). Mineral mines owned and operated by governmental bodies not subject to the provisions and requirements of Title 45.1 of the Code of Virginia are exempt from this requirement;

14. Mining permit number;

15. The following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

The registration statement shall be signed in accordance with 9VAC25-31-110.

9VAC25-190-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements in it and be subject to all requirements of the VPDES permit regulation, 9VAC25-31-10 et seq.

General Permit No.: VAG84

Effective date: July 1, ~~2004~~ 2009

Expiration date: June 30, ~~2009~~ 2014

GENERAL PERMIT FOR NONMETALLIC MINERAL MINING

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

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant to it, owners of nonmetallic mineral mines are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I—Effluent Limitations and Monitoring Requirements, Part II—Storm Water Management, and Part III—Conditions Applicable to All VPDES Permits, as set forth herein.

Part I

Effluent Limitations ~~And~~ and Monitoring Requirements

A. Effluent limitations and monitoring requirements.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater and commingled storm water associated with industrial activity from outfall(s).

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽³⁾	Sample Type
Flow (MGD)	NL	NA	NL	1/3 Months	Estimate
Total Suspended Solids (mg/l)	30	NA	60	1/3 Months	Grab
pH (standard units)	NA	6.0 <u>6.0⁽¹⁾</u>	9.0 <u>9.0⁽¹⁾</u>	1/3 Months	Grab
Total Petroleum Hydrocarbons (mg/l) ** (mg/l) ⁽²⁾	NA	NA	NL	1/3 Months	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

*~~Where~~ ⁽¹⁾Where the Water Quality Standards (9VAC25-260) establish alternate standards for pH, pH effluent limits may be adjusted within the 6 to 9 S.U. range.

**~~Monitoring~~ ⁽²⁾Monitoring for Total Petroleum Hydrocarbons is only required for outfalls from vehicle/equipment washing facilities or from discharges that pass through oil/water separators.

⁽³⁾Discharge Monitoring Reports (DMRs) of quarterly monitoring shall be submitted to the DEQ regional office no later than the 10th day of April, July, October, and January.

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

3. During the period beginning with the permittee's coverage under the general permit and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other wastewaters prior to discharge from outfall(s).

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

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Monthly Average	Daily Minimum	Daily Maximum	Frequency ⁽²⁾	Sample Type
Flow (MG)	NA	NA	NL	1/Year	Estimate <u>Estimate⁽¹⁾</u>
Total Suspended Solids (mg/l)	NA	NA	NL ⁽³⁾	1/Year	Grab
pH (standard units)	NA	NL	NL	1/Year	Grab

NL = No Limitation, monitoring required

NA = Not applicable

*~~Estimate~~ ⁽¹⁾Estimate of the total volume of the discharge during the storm event.

⁽²⁾Discharge Monitoring Reports (DMRs) of yearly monitoring (January 1 to December 31) shall be submitted to the DEQ regional office no later than the 10th day of January.

⁽³⁾Refer to Part I B 13 should the TSS evaluation monitoring exceed 100 mg/l daily maximum.

Regulations

4. All samples taken to meet the monitoring requirements specified above in ~~A-3 Part I A 3~~ shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude, ~~and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. The grab sample shall be taken during the first 30 minutes of the discharge. If the collection of a grab sample during the first 30 minutes is impracticable, a grab sample can be taken during the first hour of the discharge, and the permittee shall submit with the monitoring report a description of why a grab sample during the first 30 minutes was impracticable.~~

B. Special conditions.

1. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to prevent the potential or actual point source pollution of the surface or groundwaters of the state. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or groundwaters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner so as not to allow their entry into the surface or groundwaters of the state.

2. No sewage shall be discharged from this mineral mining activity except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the discharge, other than those listed on the owner's approved registration statement.

4. The permittee shall submit a new registration statement if the mining permit approved by the Division of Mineral Mining (or associated waived program, or bordering state mine authority) is modified or reissued in any way that would affect the outfall location or the characteristics of a discharge covered by this general permit. Government owned and operated mines without mining permits shall submit the registration statement whenever outfall location or characteristics are altered. The new registration statement shall be filed within 30 days of the outfall relocation or change in the characteristics of the discharge.

5. The permittee shall notify the department as soon as they know or have reason to believe:

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) One hundred micrograms per liter (100 µg/l);

(2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

(3) Five times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

b. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following notification levels:

(1) Five hundred micrograms per liter (500 µg/l);

(2) One milligram per liter (1 mg/l) for antimony;

(3) Ten times the maximum concentration value reported for that pollutant in the permit application; or

(4) The level established by the board.

6. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the federal Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Is more stringent than any effluent limitation on the pollutant already in the permit; or

b. Controls any pollutant not limited in the permit.

7. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

8. There shall be no discharge of process wastewater pollutants from ~~co-located~~ colocated asphalt paving materials operations. For the purposes of this special condition, process wastewater pollutants are any pollutants present in water used in asphalt paving materials manufacturing which come into direct contact with any raw materials, intermediate product, by-product or product related to the asphalt paving materials manufacturing process.

9. Process water may be used on site for the purpose of dust suppression. Dust suppression shall be carried out as a best management practice but not as a wastewater disposal

method provided that ponding or direct runoff from the site does not occur during or immediately following its application.

10. Process water from mine dewatering may be provided to local property owners for beneficial agricultural use.

11. Vehicle/equipment washing shall include washing with detergents or steam cleaning of engines and other drive components in which the purpose is to clean and decrease the equipment for maintenance and other purposes. The application of water without detergent to a vehicle exterior for the purpose of removing is excluded.

12. The permittee shall report at least two significant digits for a given parameter. Regardless of the rounding convention used (i.e., 5 always rounding up or to the nearest even number) by the permittee, the permittee shall use the convention consistently and shall ensure that consulting laboratories employed by the permittee use the same convention.

13. Storm Water Monitoring Total Suspended Solids (TSS) Evaluation. Permittees that monitor storm water associated with industrial activity which does not combine with other wastewaters prior to discharge shall review the results of the TSS monitoring required by Part I A 3 to determine if changes to the Storm Water Pollution Prevention Plan (SWPPP) may be necessary. If the TSS monitoring results are greater than the evaluation value of 100 mg/l, then the permittee shall perform the inspection and maintain documentation as described in Part II H 3 d for that outfall. Any deficiencies noted during the inspection shall be corrected in a timely manner.

14. Discharges to waters subject to TMDL waste load allocations. Facilities that are an identified source of the specified pollutant of concern to waters for which a "total maximum daily load" (TMDL) waste load allocation has been established by the board and approved by EPA prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part III that are consistent with the assumptions and requirements of the TMDL. The department will provide written notification to the owner that a facility is subject to the TMDL requirements. The facility's SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall incorporate that allocation into the facility's SWPPP, perform any required monitoring in accordance with Part I A 1 c (3), and implement measures necessary to meet that allocation.

Part II Storm Water Management

A. Recording of results.

1. Additional information. In addition to any reporting requirements of Part III, for each measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and report with the discharge monitoring report the following information:

a. The date and duration (in hours) of the storm events sampled; and

b. The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and

~~e. The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.~~

2. Additional reporting. In addition to filing copies of discharge monitoring reports in accordance with Part III, permittees with at least one storm water discharge associated with industrial activity through a large or medium municipal separate storm sewer system (systems serving a population of 100,000 or more) or a municipal system designated by the board must submit signed copies of discharge monitoring reports to the operator of the municipal separate storm sewer system at the same time.

B. Representative discharge. When a facility has two or more exclusively storm water outfalls that, ~~based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one of such outfalls and include with the discharge monitoring report an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluents.~~ In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the run-off coefficient of the drainage area (e.g., low (under 40%), medium (40% to 65%) or high (above 65%)) ~~shall be provided.~~ the permittee reasonably believes discharge substantially identical effluents, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfalls, then the permittee may submit information with the registration statement substantiating the request for only one DMR to be issued for the outfall to be sampled that represents one or more substantially identical outfalls. Also the permittee may list on the discharge monitoring report of the

Regulations

outfall to be sampled all outfall locations that are represented by the discharge.

C. Sampling waiver.

1. Adverse conditions. When a permittee is unable to collect samples within a specified sampling period due to adverse climatic conditions, the permittee shall collect a substitute sample from a separate qualifying event in the next period and submit these data along with the data for the routine sampling in that period. Adverse weather conditions that may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

2. Inactive and unstaffed facilities. When a permittee is unable to conduct the storm water sampling required at an inactive and unstaffed facility, the permittee may exercise a waiver of the monitoring requirements as long as the facility remains inactive and unstaffed. The permittee must submit to the department, in lieu of monitoring data, a certification statement on the discharge monitoring report stating that the facility is inactive and unstaffed so that collecting a sample during a qualifying event is not possible.

D. Storm water pollution prevention plans. A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

The storm water pollution prevention plan requirements of this general permit may be fulfilled by incorporating by reference other plans or documents such as an erosion and sediment control plan, a mine drainage plan as required by the Virginia Division of Mineral Mining, a spill prevention control and countermeasure (SPCC) plan developed for the facility under § 311 of the federal Clean Water Act or best management practices (BMP) programs otherwise required for the facility provided that the incorporated plan meets or exceeds the plan requirements of Part II H. If an erosion and sediment control plan is being incorporated by reference, it shall have been approved by the locality in which the activity is to occur or by another appropriate plan-approving authority

authorized under the Virginia Erosion and Sediment Control Regulations, 4VAC50-30. All plans incorporated by reference into the storm water pollution prevention plan become enforceable under this permit. If a plan incorporated by reference does not contain all of the required elements of the storm water pollution prevention plan of Part II H, the permittee must develop the missing plan elements and include them in the required storm water pollution prevention plan.

E. Deadlines for plan preparation and compliance.

1. Existing facilities and new facilities that begin operation on or before July 1, ~~2004~~ 2009, shall prepare and implement a plan incorporating the storm water pollution prevention plan requirements of this permit, if not included in an existing plan, as expeditiously as practicable, but not later than July 1, ~~2005~~ 2010. Existing storm water pollution prevention plans being implemented as of July 1, ~~2004~~ 2009 shall continue to be implemented until a new plan is developed and implemented.

2. Facilities that begin operation after July 1, ~~2004~~ 2009, shall prepare and implement a plan incorporating the requirements of this permit prior to submitting the registration statement.

F. Signature and plan review.

1. The plan shall be signed in accordance with Part III K (signatory requirements), and be retained on-site at the facility covered by this permit in accordance with Part III B (records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make the storm water pollution prevention plan, annual site compliance inspection report, or other information available to the department upon request.

3. The director, or an authorized representative, may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 60 days of such notification from the director, or as otherwise provided by the director, or an authorized representative, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly

minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity. New owners shall review the existing plan and make appropriate changes. Amendments to the plan may be reviewed by the department in the same manner as described in Part II F.

H. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water run-off, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities where such activities are exposed to precipitation: fueling stations, vehicle and equipment maintenance and/or cleaning areas, loading/unloading areas, locations used for the treatment, storage or disposal of wastes and wastewaters, liquid storage tanks, processing areas and storage areas. The map must indicate all outfall locations. The types of discharges contained in the drainage areas of the outfalls must be indicated either on the map or in an attached narrative.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an

identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water run-off between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water run-off; and a description of any treatment the storm water receives.

c. Spills and leaks. A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. Sampling data. A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. Risk identification and summary of potential pollutant sources. A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g., biochemical oxygen demand, etc.) of concern shall be identified.

3. Measures and controls. Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The

Regulations

description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. Good housekeeping. Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner. The plan shall describe procedures performed to minimize contact of materials with storm water run-off. Particular attention should be paid to areas where raw materials are stockpiled, material handling areas, storage areas, liquid storage tanks, and loading/unloading areas.

b. Preventive maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. The maintenance program shall require periodic removal of debris from discharge diversions and conveyance systems. Permittees using settling basins to control their effluents must provide maintenance schedules for such basins in the pollution prevention plan.

c. Spill prevention and response procedures. Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. Inspections. Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall be identified to inspect material storage and handling areas, liquid storage tanks, hoppers or silos, vehicle and equipment maintenance areas, cleaning and fueling areas, material handling vehicles and designated equipment and processing areas of the facility; to inspect best management practices; and to conduct visual examinations of storm water associated with industrial activity. The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be a minimum of quarterly. Inspections of best management practices shall include inspection of storm water discharge diversions, conveyance systems, sediment control and

collection systems, containment structures, vegetation, serrated slopes, and benched slopes to determine their effectiveness, the integrity of control structures, if soil erosion has occurred, or if there is evidence of actual or potential discharge of contaminated storm water. Visual examinations of storm water discharges associated with industrial activity shall include examination of storm water samples representative of storm event discharges from the facility and observation of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. Site inspection, best management practices inspection and visual examination results must be documented and maintained on-site with the facility pollution prevention plan. Documentation for visual examinations of storm water shall include the examination date and time, examination personnel, outfall location, the nature of the discharge, visual quality of the storm water discharge and probable sources of any observed storm water contamination. Part II B regarding representative discharges and Part II C regarding sampling waivers shall apply to the taking of samples for visual examination except that (i) the documentation required by these sections shall be retained with the storm water pollution prevention plan visual examination records rather than submitted to the department, and (ii) substitute sampling for waived sampling is not required if the proper documentation is maintained. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections.

e. Employee training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. Recordkeeping and internal reporting procedures. A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan. Ineffective best management practices must be recorded and the date of their corrective action noted.

g. Sediment and erosion control. The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, or stabilization

measures to be used to limit erosion. Permittees must indicate the location and design for proposed best management practices to be implemented prior to land disturbance activities. For sites already disturbed but without best management practices, the permittee must indicate the location and design of best management practices that will be implemented. The permittee is required to indicate plans for grading, contouring, stabilization, and establishment of vegetative cover for all disturbed areas, including road banks.

h. Management of run-off. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or sources of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water run-off in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II H 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. Comprehensive site compliance evaluation. Facility personnel who are familiar with the mining activity, the best management practices and the storm water pollution prevention plan shall conduct site compliance evaluations at appropriate intervals specified in the plan, but in no case less than once a year for active sites. When annual compliance evaluations are shown in the plan to be impractical for inactive mining sites due to remote location and inaccessibility, site evaluations must be conducted at least once every three years. Such evaluations shall include the following:

a. Areas contributing to a storm water discharge associated with industrial activity, including material storage and handling areas; liquid storage tanks; hoppers or silos; vehicle and equipment maintenance, cleaning, and fueling areas; material handling vehicles; equipment and processing areas; and areas where aggregate is stockpiled outdoors, shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control

measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the evaluation, the description of potential pollutant sources identified in the plan in accordance with Part II H 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the dates of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as required in Part III B (records). The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with Part III K (signatory requirements) of this permit and retained as required in Part III B.

d. Where compliance evaluation schedules overlap with inspections required under Part II H 3 d (inspections), the compliance evaluation may be conducted in place of one such inspection.

~~5. Additional requirements for storm water discharges associated with industrial activity that discharge into or through municipal separate storm sewer systems serving a population of 100,000 or more.~~

~~a. In addition to the applicable requirements of this permit, facilities covered by this permit must comply with applicable requirements in municipal storm water management programs developed under VPDES permits issued for the discharge of the municipal separate storm sewer system that receives the facility's discharge, provided the permittee has been notified of such conditions.~~

~~b. Permittees that discharge storm water associated with industrial activity through a municipal separate storm sewer system serving a population of 100,000 or more, or a municipal system designated by the director, shall~~

Regulations

~~make plans available to the municipal operator of the system upon request.~~

Part III

Conditions Applicable To All VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) and time(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F (unauthorized discharges); or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of

the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

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

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the federal Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the federal Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to

Regulations

notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purposes of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board, shall be signed by a person described in Part III K 1 or by a duly authorized

representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

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

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

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the federal Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the federal Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the federal Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the federal Clean Water Act within the time provided in the

regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

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

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

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or

disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III I (reports of noncompliance).

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part III V 2 are

Regulations

met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- a. An upset occurred and that the permittee can identify the cause(s) of the upset;
- b. The permitted facility was at the time being properly operated;
- c. The permittee submitted notice of the upset as required in Part III I; and
- d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the federal Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the federal Clean Water Act.

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS (9VAC25-190)

Department of Environmental Quality Water Division
Permit Application Fee (rev. ~~6/99~~ 1/08).

Local Government Ordinance Form (eff. 8/93).

Virginia Pollutant Discharge Elimination System General
Permit Registration Statement - Nonmetallic Mineral Mining.

Virginia Pollutant Discharge Elimination System General
Permit Notice of Termination for Nonmetallic Mineral
Mining.

VA.R. Doc. No. R08-1057; Filed December 12, 2008, 3:36 p.m.



TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Proposed 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: 10VAC5-200. Payday Lending (amending 10VAC5-200-60, 10VAC5-200-110; adding 10VAC5-200-130).

Statutory Authority: §§ 6.1-458 and 12.1-13 of the Code of Virginia.

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

Public Comments: Public comments may be submitted until 5 p.m. on January 20, 2009.

Agency Contact: E. J. Face, Jr., Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 640, Richmond, VA 23218, telephone (804) 371-9659, toll-free (800) 552-7945, FAX (804) 371-9416, or email joe.face@scc.virginia.gov.

Summary:

The State Corporation Commission is proposing limited amendments to its payday lending regulations, which relate primarily to the use of the statewide payday lending database. The commission is also delaying the effective date of subsections L and M of 10VAC5-200-110 (see 25:4 VA.R. 635-636 October 27, 2008) until April 1, 2009. The proposed regulations modify subsections L and M of 10VAC5-200-110 by directing licensed payday lenders to use the database provider's alternative means of database access, such as a telephone interactive voice response system, in lieu of contacting the database provider's call center when licensed payday lenders are unable to access the database via the Internet due to technical problems beyond their control. The proposed regulations also modify 10VAC5-200-60 by incorporating a requirement contained in subdivision 18 of § 6.1-459 of the Code of Virginia. A new section, 10VAC5-200-130, is also being proposed that would give the commission greater flexibility under its payday lending regulations.

AT RICHMOND, DECEMBER 12, 2008

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2008-00436

Ex Parte: In re: limited revisions to Payday Loan Act regulations

ORDER TO TAKE NOTICE

On September 19, 2008, the State Corporation Commission ("Commission") entered an Order Adopting Final Regulations to implement significant amendments to the Payday Loan Act, § 6.1-444 et seq. of the Code of Virginia, that were adopted by the General Assembly in 2008. The final regulations were adopted effective January 1, 2009, in order to coincide with the effective date of the statutory amendments.

Following the entry of the September 19, 2008, Order, Commission staff has been working with the database provider, Veritec Solutions, LLC ("Veritec"), to facilitate the development and implementation of the statewide payday lending database in anticipation of the January 1, 2009, effective date. During this process, Commission staff has learned that Veritec has been developing a telephone interactive voice response system ("IVR") for purposes of transmitting certain limited information to the database when a licensed payday lender is unable to access the database via the Internet due to technical problems beyond the licensee's control. Although an IVR has obvious benefits, such as its 24-hour availability, subsections L and M of 10 VAC 5-200-110 do not contemplate an alternative means of database access such as an IVR. Moreover, Veritec's IVR will not be operational by January 1, 2009. Veritec has further reported to Commission staff that it cannot fully accommodate the manual call center process that is envisioned under subsections L and M beginning on January 1, 2009.

In order to address the aforementioned matters and emerging technology, Commission staff has recommended that the Commission immediately delay the effective date of subsections L and M of 10 VAC 5-200-110 and concurrently propose amendments to these subsections in order to take advantage of any alternative means of database access that Veritec may develop in the future. Commission staff has also proposed a change to 10 VAC 5-200-60, which pertains to the required posting of charges. This change simply incorporates the statutory requirement that already exists in § 6.1-459(18). A new section, 10 VAC 5-200-130, has also been proposed in order to provide the Commission with greater flexibility under its payday lending regulations.

NOW THE COMMISSION, having considered the record, staff's recommendations, and the proposed amendments, finds that the effective date of subsections L and M of

Regulations

10 VAC 5-200-110 should be delayed, certain limited changes should be made to its payday lending regulations, and all licensed payday lenders and other interested parties should be afforded an opportunity to file written comments or request a hearing on the proposed amendments. The Commission also finds that with a delay in the effective date of subsections L and M, an interim process should be prescribed to address the potential unavailability of the payday lending database.

IT IS THEREFORE ORDERED THAT:

(1) The effective date of subsections L and M of 10 VAC 5-200-110 is hereby delayed until April 1, 2009.

(2) The proposed regulations are appended hereto and made a part of the record herein.

(3) Comments or requests for a hearing on the proposed regulations must be submitted in writing to Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, on or before January 20, 2009. Comments or requests for a hearing shall be limited to the proposed amendments only. All correspondence shall contain a reference to Case No. BFI-2008-00436. Interested persons desiring to submit comments or request a hearing electronically may do so by following the instructions available at the Commission's website: <http://www.scc.virginia.gov/case>.

(4) The proposed regulations shall be posted on the Commission's website at <http://www.scc.virginia.gov/case>.

(5) Until such time as the Commission adopts revised regulations for subsections L and M of 10 VAC 5-200-110, or April 1, 2009, whichever is earlier, licensed payday lenders shall follow an interim process that comports with subdivisions L 2, L 3, and M 2 of 10 VAC 5-200-110 (as set forth in the Commission's September 19, 2008, Order Adopting Final Regulations) when they are unable to access the database due to technical problems beyond their control. Therefore, regardless of whether Veritec's call center is open or able to access the database, a licensee should not contact Veritec's call center to either check applicant eligibility or enter loan transaction information into the database on the licensee's behalf.

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

AN ATTESTED COPY hereof shall be sent to the Commissioner of Financial Institutions, who shall forthwith mail a copy of this Order and the proposed regulations to all licensed payday lenders and such other interested persons as he may designate.

10VAC5-200-60. Posting of charges.

A. A licensee shall conspicuously post in its licensed location a schedule of payments, fees and interest charges, with examples using (i) a \$300 loan payable in 14 days; (ii) a \$300 loan payable in 30 days; (iii) a \$300 loan payable in 31 days; ~~(iii)~~ (iv) a \$300 loan payable in 62 days; ~~(iv)~~ (v) a \$300 loan payable through an extended payment plan that is elected on the date the loan is obtained; ~~(v)~~ (vi) a \$300 loan payable through an extended payment plan that is elected on the 15th day of a 31-day term; and ~~(vi)~~ (vii) a \$300 extended term loan.

B. A licensee shall display its fees and interest charges not only as a dollar amount, but also as an Annual Percentage Rate, which shall be stated using this term, calculated in accordance with Federal Reserve Board Regulation Z (12 CFR 226.1 et seq.).

10VAC5-200-110. Payday lending database.

A. This section sets forth the rules applicable to the payday lending database referred to in § 6.1-453.1 of the Code of Virginia.

B. Except as otherwise provided in this section, a licensee shall transmit all information to the database via the Internet. In order to maintain the confidentiality and security of the information, a licensee shall not transmit information to the database using publicly accessible computers, computers that are not under the licensee's control, unsecured wireless (Wi-Fi) connections, or other connections that are not secure. A licensee shall maintain generally accepted security safeguards to protect the confidentiality of the information transmitted to the database, including but not limited to installing and regularly updating malware protection (antivirus and antispyware) software and a firewall.

C. Prior to making a payday loan, a licensee shall transmit the following information to the database for purposes of determining whether an applicant is eligible for a payday loan. The licensee shall obtain the applicant information required by this subsection in accordance with the provisions of subsection D of this section.

1. Name of licensee and license number.
2. Office location of licensee.
3. First and last name or identification number of employee entering information into the database.
4. Applicant's first and last name.
5. Last four digits of applicant's driver's license number or identification card number.
6. Applicant's address.
7. Applicant's date of birth.

D. 1. A licensee shall obtain the information required by subdivisions C 4, 5, 6, and 7 of this section directly from the applicant's unexpired original driver's license or identification card issued by a state driver's licensing authority (e.g., Department of Motor Vehicles for the Commonwealth of Virginia), regardless of whether the information on the driver's license or identification card is still accurate. A licensee shall not accept photocopies, facsimiles, or other reproductions of a driver's license or identification card.

2. A licensee shall photocopy the applicant's driver's license or identification card, partially redact the driver's license number or identification card number so that only the last four digits of the number remain visible, and retain the redacted photocopy in its records.

3. A licensee shall not accept a driver's license or identification card from an applicant when there is reason to believe that (i) it belongs to an individual other than the applicant or (ii) it is fake, counterfeit, or has been altered, fraudulently obtained, forged, or is otherwise nongenuine or illegitimate.

E. If the database advises a licensee that an applicant is ineligible for a payday loan, then the licensee shall inform the applicant of his ineligibility, instruct the applicant to contact the database provider for information about the specific reason for his ineligibility, and provide the applicant with the toll-free telephone number of the database provider.

F. If the database advises a licensee that an applicant is eligible for a payday loan, then the licensee shall transmit the following additional information to the database prior to making a payday loan:

1. Application date.
2. Loan number.
3. Date of loan.
4. Principal amount of loan.
5. Interest rate.
6. Dollar amount of interest to be charged until date of loan maturity.
7. Dollar amount of loan fee to be charged.
8. Dollar amount of verification fee to be charged.
9. Dollar amount of total finance charges.
10. Annual Percentage Rate (APR) of loan.
11. Number of days in applicant's pay cycle.
12. Number of days in loan term.
13. Date loan is due.

14. Dollar amount of check given by applicant to secure the loan (i.e., at the time the loan is made).

G. If the database advises a licensee that an applicant is eligible for an extended payment plan or extended term loan and the applicant subsequently elects an extended payment plan or extended term loan, then the licensee shall transmit the following additional applicable information to the database no later than the time the licensee closes for business on the date the applicant enters into the extended payment plan or extended term loan:

1. Date the extended payment plan or extended term loan is entered into.
2. Principal amount owed under the extended payment plan or extended term loan.
3. Number of installment payments and the amount of each payment to be made under the extended payment plan or extended term loan.
4. Date each installment payment is due under the extended payment plan or extended term loan.
5. Number of days in term of extended payment plan or extended term loan.

H. For purposes of this section, a licensee closes for business when it officially shuts its doors to the general public on a business day, or within one hour thereafter.

I. A licensee shall generate a separate printout from the database showing the results of each loan eligibility query, including whether an applicant is eligible for an extended payment plan or extended term loan, and retain the printout in its loan records.

J. Except as otherwise provided in subdivisions 3, 7, and 8 of this subsection, a licensee shall transmit the following additional information, as applicable, to the database no later than the time the licensee closes for business on the date of the event:

1. If a borrower cancels a payday loan, the date of the cancellation.
2. If a payday loan (including an extended term loan or a loan that a borrower elected to repay by means of an extended payment plan) is repaid or otherwise satisfied in full, (i) the date of repayment or satisfaction, and (ii) the total net dollar amount ultimately paid by the borrower in connection with the loan (i.e., principal amount of loan plus all fees and charges received or collected pursuant to §§ 6.1-460 and 6.1-461 of the Code of Virginia, less any amount refunded to the borrower as a result of overpayment).
3. If a check used to repay a loan in full is returned unpaid, the date the check is returned unpaid and the dollar amount of the check. A licensee shall transmit such information to

Regulations

the database no later than five calendar days after the date the check is returned unpaid.

4. If a licensee collects a returned check fee from a borrower, the dollar amount of the returned check fee.

5. If a licensee initiates a legal proceeding against a borrower for nonpayment of a payday loan, the date the proceeding is initiated and the total dollar amount sought to be recovered.

6. If a licensee obtains a judgment against a borrower, the date and total dollar amount of the judgment.

7. If a judgment obtained by a licensee against a borrower is satisfied, the date of satisfaction. A licensee shall transmit such information to the database on the date the licensee learns that the judgment has been satisfied.

8. If a licensee collects any court costs or attorney's fees from a borrower, the dollar amount of the court costs or attorney's fees. A licensee shall transmit such information to the database on the date the licensee learns that the court costs or attorney's fees have been paid.

9. If a licensee charges off a payday loan as uncollectible, the date the loan is charged off and the total dollar amount charged off.

K. 1. If any information required to be transmitted by a licensee to the database is automatically populated or calculated by the database provider, the licensee shall verify the information and immediately correct any inaccuracies or other errors.

2. If a licensee becomes aware of any changes, inaccuracies, or other errors in the information previously verified or transmitted by the licensee to the database, the licensee shall immediately update or correct the database.

L. The following provisions address a licensee's inability to access the database via the Internet at the time of loan application:

1. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall contact the database provider's call center and request that the call center enter to the extent possible use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section and query the database on the licensee's behalf. The licensee shall document in its records the technical problems it experienced, the specific information it provided to the call center, the result of each query (including the applicant's eligibility for an extended payment plan or extended term loan), the date and time of the phone call, and the first and last name or identification number of the person in the call center who provided the

~~results of the query to the licensee obtaining applicant eligibility information from the database.~~

~~2. If at the time a licensee receives a loan application the licensee is unable to access the database due to technical problems beyond the licensee's control and the database provider's call center is either closed or also unable to access the database, If a licensee makes a payday loan based on applicant eligibility information obtained from the database provider's alternative means of database access, then the licensee shall transmit to the database any remaining information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee via the Internet.~~

~~3. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control and the database provider's alternative means of database access is unavailable or otherwise unable to provide the licensee with applicant eligibility information (including eligibility for an extended payment plan or extended term loan), then the licensee may make a payday loan to an applicant if the applicant signs and dates a separate document containing all of the representations and responses to the questions set forth below and the prospective loan otherwise complies with the provisions of the Act and this chapter. The document shall be printed in a type size of not less than 14 point and contain a statement that the representations and questions relate to loans obtained from either the licensee or another payday lender. The licensee shall retain the original document in its loan file and provide the applicant with a duplicate original. ~~The licensee shall also document in its records the technical problems it experienced and the date and time that it sought to query the database.~~~~

a. The representations to be made by an applicant are as follows:

(1) I do not currently have any outstanding payday loans.

(2) I did not repay or otherwise satisfy in full a payday loan today.

(3) In the past 90 days I did not repay or otherwise satisfy in full a payday loan by means of an extended payment plan.

(4) In the past 45 days I did not repay or otherwise satisfy in full a fifth payday loan that was obtained within a period of 180 days.

(5) In the past 90 days I did not repay or otherwise satisfy in full an extended term loan.

(6) I did not obtain an extended term loan within the past 150 days.

(7) I am not a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(8) I am not married to a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(9) I am not under the age of 18 and the son or daughter of a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

(10) One-half or less (including none) of my financial support for the past 180 days was provided by a regular or reserve member of the United States Army, Navy, Marine Corps, Air Force, Coast Guard, or National Guard serving on active duty under a call or order that does not specify a period of 30 days or fewer.

b. The questions to be presented to an applicant are as follows:

(1) In the past 12 months, have you obtained an extended payment plan in order to repay a payday loan? If the applicant's response is "no" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision C 4 of 10VAC5-200-33.

(2) Have you obtained four or more payday loans within the past 180 days? If the applicant's response is "yes" and the applicant is eligible for a payday loan, then the licensee shall immediately provide the applicant with the oral notice prescribed in subdivision E 4 of 10VAC5-200-35.

~~3. c.~~ If a licensee makes a payday loan based upon an applicant's written representations and responses pursuant to subdivision L 3 of this section, then the licensee shall transmit ~~the information required by this section~~ to the database the information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee, via either directly the Internet or through the database provider's call center alternative means of database access.

4. If at the time a licensee receives a loan application the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall document in its records the technical problems it experienced and the date and time that it sought to access the database.

M. The following provisions address a licensee's inability to access the database via the Internet subsequent to ~~loan application~~ making a loan:

1. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control, then the licensee shall ~~contact the database provider's call center and request that the call center enter the information required by this section on the licensee's behalf. The licensee shall document in its records the technical problems it experienced, the specific information it provided to the call center, the date and time of the phone call, and the first and last name or identification number of the person in the call center who entered the information on the licensee's behalf to the extent possible~~ use the database provider's alternative means of database access, such as a telephone interactive voice response system, for purposes of transmitting the information required by this section to the database. If the database provider's alternative means of database access is unavailable or otherwise unable to accept the information, then the licensee shall transmit to the database the information required by this section no later than the time the licensee closes for business on the date that the database becomes accessible to the licensee, via either the Internet or the database provider's alternative means of database access.

2. If a licensee is required to transmit to the database information regarding a loan that has already been made, but the licensee is unable to access the database via the Internet due to technical problems beyond the licensee's control ~~and the database provider's call center is closed or also unable to access the database~~, then the licensee shall ~~transmit to the database the information required by this section no later than the time the licensee closes for business on the date the database becomes accessible to the licensee, either directly or through the database provider's call center. The licensee shall also document in its records the technical problems it experienced and the date and time that it sought to transmit the information to the database.~~

N. By the close of business on each business day, a licensee shall transmit to the database the total daily number (even if 0) of individuals who were unable to obtain payday loans from the licensee because they are members of the military services of the United States or the spouses or other dependents of members of the military services of the United States. If the licensee is unable to access the database due to technical problems beyond the licensee's control, then the licensee shall transmit to the database the information required by this subsection no later than the time the licensee closes for business on the next business day that the licensee is able to access the database. The licensee shall also

Regulations

document in its records the technical problems it experienced and the date and time that it sought to transmit the information to the database.

O. A licensee shall have limited access to the information contained in the database. The database shall only provide a licensee with the following information: (i) whether an applicant is eligible for a new payday loan; (ii) if an applicant is ineligible for a new payday loan, the general reason for the ineligibility (e.g., the database may state that the applicant has an outstanding payday loan but it shall not furnish any details regarding the outstanding loan); and (iii) if an applicant is eligible for a new payday loan, whether the applicant is also eligible for an extended payment plan or extended term loan. The database shall also permit a licensee to access information that the licensee is required to transmit to the database provided that such access is for the sole purpose of verifying, updating, or correcting the information. Except as otherwise provided in this subsection, a licensee shall be prohibited from accessing or otherwise obtaining any information contained in or derived from the database.

P. If the Commissioner of Financial Institutions determines that a licensee has ceased business but still has one or more outstanding payday loans that cannot be repaid due to the licensee's closure, the Commissioner of Financial Institutions may authorize the database provider to mark the outstanding loans as satisfied in the database in order to enable the affected borrowers to obtain payday loans in the future.

Q. 1. Except as provided in subsection F of 10VAC5-200-35, payday loans made on or after October 1, 2008, and prior to January 1, 2009, that remain outstanding on January 1, 2009, shall be considered for purposes of determining a borrower's eligibility for a payday loan. Accordingly, on or before January 1, 2009, a licensee shall transmit the following information to the database in connection with every payday loan made on or after October 1, 2008, that will or may be outstanding as of January 1, 2009:

- a. Name of licensee and license number.
- b. Office location of licensee.
- c. First and last name or identification number of employee entering information into the database.
- d. Borrower's first and last name.
- e. Last four digits of borrower's driver's license number or identification card number.
- f. Borrower's address.
- g. Borrower's date of birth.
- h. Date loan funds were disbursed.
- i. Date loan is due.

2. A licensee shall obtain and retain the borrower information required by this subsection in accordance with the provisions of subsection D of this section.

3. For every payday loan made on or after October 1, 2008, that remains outstanding as of January 1, 2009, a licensee shall transmit to the database all applicable information required by subsection J of this section within the time prescribed therein or January 1, 2009, whichever is later.

10VAC5-200-130. Commission authority.

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

VA.R. Doc. No. R09-1749; Filed December 12, 2008, 6:01 p.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Titles of Regulations: **12VAC5-230. State Medical Facilities Plan (amending 12VAC5-230-10, 12VAC5-230-30; adding 12VAC5-230-40 through 12VAC5-230-1000; repealing 12VAC5-230-20).**

12VAC5-240. General Acute Care Services (repealing 12VAC5-240-10 through 12VAC5-240-60).

12VAC5-250. Perinatal Services (repealing 12VAC5-250-10 through 12VAC5-250-120).

12VAC5-260. Cardiac Services (repealing 12VAC5-260-10 through 12VAC5-260-130).

12VAC5-270. General Surgical Services (repealing 12VAC5-270-10 through 12VAC5-270-60).

12VAC5-280. Organ Transplantation Services (repealing 12VAC5-280-10 through 12VAC5-280-70).

12VAC5-290. Psychiatric and Substance Abuse Treatment Services (repealing 12VAC5-290-10 through 12VAC5-290-70).

12VAC5-300. Mental Retardation Services (repealing 12VAC5-300-10 through 12VAC5-300-70).

12VAC5-310. Medical Rehabilitation Services (repealing 12VAC5-310-10 through 12VAC5-310-70).

12VAC5-320. Diagnostic Imaging Services (repealing 12VAC5-320-10 through 12VAC5-320-480).

12VAC5-330. Lithotripsy Services (repealing 12VAC5-330-10 through 12VAC5-330-70).

12VAC5-340. Radiation Therapy Services (repealing 12VAC5-340-10 through 12VAC5-340-120).

12VAC5-350. Miscellaneous Capital Expenditures (repealing 12VAC5-350-10 through 12VAC5-350-60).

12VAC5-360. Nursing Home Services (repealing 12VAC5-360-10 through 12VAC5-360-70).

Statutory Authority: § 32.1-102.2 of the Code of Virginia.

Effective Date: February 15, 2009.

Agency Contact: Carrie Eddy, Policy Analyst, Department of Health, 3600 West Broad Street, Richmond, VA 23230, telephone (804) 367-2157, or email carrie.eddy@vdh.virginia.gov.

Summary:

Except for changes required by legislative mandate, the State Medical Facilities Plan (SMFP) has not been reviewed and updated since it was first promulgated in 1993. The intent of the revision project is to update the criteria and standards to reflect industry standards, remove archaic language and ambiguities, and consolidate all portions of the SMFP into one comprehensive document. As a result of the consolidation, 12VAC5-240 through 12VAC5-360 are repealed and 12VAC5-230 is amended.

Because of stakeholder concerns regarding the initial proposed draft, the Board of Health directed staff to reconvene the work group and consider additional amendments to the draft. Substantive changes were made as a result of the reconvened advisory group including, but not limited to, additional section breakouts to facilitate identification of specific topics, further clarification to definitions, adjusting the CT volume criteria from 10,000 procedures to 7,500 procedures, creating a section for long-term acute care hospitals, and establishing a separate formula to prorating mobile services.

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.

Part I
Definitions and General Information

12VAC5-230-10. Definitions.

The following words and terms when used in Chapters 230 (12VAC5-230) through 360 (12VAC5-360) this chapter shall have the following meanings unless the context clearly indicates otherwise:

~~"Acceptability" means to the level of satisfaction expressed by consumers with the availability, accessibility, cost, quality, continuity and degree of courtesy and consideration afforded them by the health care system.~~

~~"Accessibility" means the ability of a population or segment of the population to obtain appropriate, available services. This ability is determined by economic, temporal, locational, architectural, cultural, psychological, organizational and informational factors which may be barriers or facilitators to obtaining services.~~

~~"Acute psychiatric services" means hospital-based inpatient psychiatric services provided in distinct inpatient units in general hospitals or freestanding psychiatric hospitals.~~

~~"Acute substance abuse disorder treatment services" means short-term hospital-based inpatient treatment services with access to the resources of (i) a general hospital, (ii) a psychiatric unit in a general hospital, (iii) an acute care addiction treatment unit in a general hospital licensed by the Department of Health, or (iv) a chemical dependency specialty hospital with acute care medical and nursing staff and life support equipment licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.~~

~~"Applicant" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, submitting an application for a Certificate of Public Need.~~

~~"Availability" means the quantity and types of health services that can be produced in a certain area, given the supply of resources to produce those services.~~

~~"Bassinet" means an infant care station, including warming stations and isolettes [, whether located in a hospital nursery or labor and delivery unit].~~

~~"Bed" means that unit, within the complement of a medical care facility, subject to COPN review as required by § 32.1-102.1 of the Code of Virginia and designated for use by patients of the facility or service. For the purposes of this chapter, bed [includes does include] cribs and bassinets used for pediatric patients [outside the, but does not include cribs and bassinets in the newborn] nursery or [labor and delivery neonatal special care] setting.~~

~~"Cardiac catheterization" means a procedure where a flexible tube is inserted into the patient through an extremity blood vessel and advanced under fluoroscopic guidance into the heart chambers to perform (i) a hemodynamic, electrophysiologic or angiographic examination of the left or right heart chamber or the coronary arteries; (ii) aortic root injections to examine the degree of aortic root regurgitation or deformity of the aortic valve; or (iii) angiographic procedures to evaluate the coronary arteries. Therapeutic intervention in a coronary artery may also be performed using cardiac catheterization. Cardiac catheterization may include therapeutic intervention, but does not include a simple right heart catheterization for monitoring purposes as might be performed in an electrophysiology laboratory, pulmonary~~

Regulations

angiography as an isolated procedure, or cardiac pacing through a right electrode catheter.

~~"Certificate of Public Need" or "COPN" means the orderly administrative process used to make medical care facilities and services needs decisions.~~

~~"Charges" means all expenses incurred by the provider in the production and delivery of health services.~~

~~"Commissioner" means the State Health Commissioner.~~

~~"Competing applications" means applications for the same or similar services and facilities that are proposed for the same [health] planning district, or same [health] planning region for projects reviewed on a regional basis, and are in the same batch review cycle.~~

~~"Computed tomography" or "CT" means a noninvasive diagnostic technology that uses computer analysis of a series of cross-sectional scans made along a single axis of a bodily structure or tissue to construct a three dimensional an image of that structure.~~

~~"Condition" means the agreed upon qualifications placed on a project by the commissioner when granting a Certificate of Public Need. Such conditions shall direct an applicant to provide a level of care to indigents, accept patients requiring specialized needs, or facilitate the development and operation of primary care services in designated medically underserved areas of the applicant's service area.~~

~~"Continuing care retirement community" or "CCRC" means a retirement community consistent with the requirements of Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia. [CCRCs can have nursing home services available on site or at licensed facilities off site.]~~

~~"COPN" means [the a] Medical Care Facilities Certificate of Public Need [Program as contained for a project as required] in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia [, used to make medical care facilities and services needs decisions].~~

~~["COPN program" means the Medical Care Facilities Certificate of Public Need Program implementing Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.]~~

~~"Continuity of care" means the extent of effective coordination of services provided to individuals and the community over time, within and among health care settings.~~

~~"Cost" means all expenses incurred in the production and delivery of health services.~~

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

~~"DEP" means diagnostic equivalent procedure, a method for weighing the relative value of various cardiac catheterization procedures as follows: a diagnostic procedure equals 1 DEP, a therapeutic procedure equals 2 DEPs, a same session~~

~~procedure (diagnostic and therapeutic) equals 3 DEPs, and a pediatric procedure equals 2 DEPs.~~

~~"Direction" means guidance, supervision or management of a function or activity.~~

~~"General inpatient hospital beds" means beds located in the following units or categories:~~

~~1. Medical/surgical units available for the care and treatment of adults not requiring specialized services; and~~

~~2. Pediatric units that are maintained and operated as a distinct unit for use by patients younger than 21. Newborn cribs and bassinets are excluded from this definition.~~

~~["Gamma knife®" means the name of a specific instrument used in stereotactic radiosurgery.~~

~~"Health planning district" means the same contiguous areas designated as planning districts by the Virginia Department of Housing and Community Development or its successor.]~~

~~"Health planning region" means a contiguous geographic area of the Commonwealth as designated by the department Board of Health with a population base of at least 500,000 persons, characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.~~

~~"Health system" means an organization of two or more medical care facilities, including but not limited to hospitals, that are under common ownership or control and are located within the same [health] planning district, or [health] planning region for projects reviewed on a regional basis.~~

~~"Hospital" means a medical care facility licensed as a general, community, or special hospital licensed an inpatient hospital or outpatient surgical center by the Department of Health or as a psychiatric hospital licensed by the Department of Mental Health, Mental Retardation, and Substance Abuse Services.~~

~~"Hospital-based" means a service operating physically within, connected to a hospital, or on the hospital campus, and legally associated with a hospital.~~

~~"ICF/MR" means an intermediate care facility for the mentally retarded.~~

~~"Indigent or uninsured" means persons eligible to receive reduced rate or uncompensated care at or below Income Level E as defined in 12VAC5-200-10 of the Virginia Administrative Code any person whose gross family income is equal to or less than 200% of the federal Nonfarm Poverty Level or income levels A through E of 12VAC5-200-10 and who is uninsured.~~

~~"Inpatient beds" means accommodations in a medical care facility with [continuous support services, such as food, laundry, housekeeping, and staff to provide health or health-related services to patients who generally remain in the a~~

~~medical care facility in excess of 24 hours or longer a patient who is hospitalized longer than 24 hours for health or health related services]. Such accommodations are known by various nomenclatures including but not limited to: nursing facility, intensive care, minimal or self care, isolation, hospice, observation beds equipped and staffed for overnight use, obstetric, medical/surgical, psychiatric, substance abuse disorder, medical rehabilitation, and pediatric. Bassinets and incubators and beds in labor and birthing rooms, emergency rooms, preparation or anesthesia induction rooms, diagnostic or treatment procedure rooms, or on-call staff rooms are excluded from this definition.~~

"Intensive care beds" or "ICU" means ~~acute care~~ inpatient beds located in the following units or categories:

1. ~~General intensive care units are those units where patients are concentrated by reason of serious illness or injury regardless of diagnosis. Special lifesaving techniques and equipment are immediately available and patients are under continuous observation by nursing staff.~~
2. ~~Cardiac care units, also known as Coronary Care Units or CCUs, are units staffed and equipped solely for the intensive care of cardiac patients; and~~
3. ~~Specialized intensive care units are any units with specialized staff and equipment for the purpose of providing care to seriously ill or injured patients for based on age selected categories of diagnoses, including units established for burn care, trauma care, neurological care, pediatric care, and cardiac surgery recovery . This category of beds, but does not include bassinets in neonatal [intensive special] care units.~~

~~"Intermediate care substance abuse disorder treatment services" means long term hospital based inpatient treatment services that provide structured programs of assessment, counseling, vocational rehabilitation, and social rehabilitation.~~

"Lithotripsy" means a noninvasive therapeutic procedure ~~of crushing kidney~~, to (i) crush renal and biliary stones using shock waves. Lithotripsy can also be used to fragment matter such as calcifications or bone, i.e., renal lithotripsy or (ii) ~~to~~ treat certain musculoskeletal conditions and to relieve the pain associated with tendonitis [.] i.e., orthopedic lithotripsy.

"Long-term acute care hospital" or "LTACH" means an inpatient hospital that provides care for patients who require a length of stay greater than 25 days and is, or proposes to be, certified by the Centers for Medicare and Medicaid Services as a long-term care inpatient hospital pursuant to 42 CFR Part 412. [~~For the purpose of granting a COPN, the Board of Health pursuant to § 32.1-102.2 A 6 of the Code of Virginia has designated LTACH as a type of extended care facility.~~]

An LTACH may be either a free standing facility or located within an existing or host hospital.

"Magnetic resonance imaging" or "MRI" means a noninvasive diagnostic technology using a nuclear spectrometer to produce electronic images of specific atoms and molecular structures in solids, especially human cells, tissues and organs.

["Medical rehabilitation" means those services provided consistent with 42 CFR 412.23 and 412.24.]

"Medical/surgical" [~~or "med/surge"~~] means those services available for the care and treatment of patients not requiring specialized services.

"Minimum survival rates" means the [~~lowest base~~] percentage of [~~those receiving organ transplants~~ transplant recipients] who survive at least one year or for such other period of time as specified by the United Network for Organ Sharing [(UNOS)].

"MRI relevant patients" means the sum of: 0.55 times the number of patients with a principal diagnosis involving neoplasms (ICD-9-CM codes 140-239); 0.70 times the number of patients with a principal diagnosis involving diseases of the central nervous system (ICD-9-CM codes 320-349); 0.40 times the number of patients with a principal diagnosis involving cerebrovascular disease (ICD-9-CM codes 430-438); 0.40 times the number of patients with a principal diagnosis involving chronic renal failure (ICD-9-CM code 585); 0.19 times the number of patients with a principal diagnosis involving dorsopathies (ICD-9-CM codes 720-724); 0.40 times the number of patients with a principal diagnosis involving diseases of the prostate (ICD-9-CM codes 600-602); and 0.40 times the number of patients with a principal diagnosis involving inflammatory disease of the ovary, fallopian tube, pelvic cellular tissue or peritoneum (ICD-9-CM code 614). The applicant shall have discharged all patients in these categories during the most recent 12-month reporting period.

"Neonatal special care" means care for infants in one or more of the three higher service levels designated in 12VAC5-410-440-D-2 12VAC5-410-443 of the Rules and Regulations for the Licensure of Hospitals [~~i.e., a hospital elevates its services from general level normal newborn to intermediate level newborn services, specialty level newborn services, or subspecialty level newborn services~~].

"Network" means a group of medical care facilities, including hospitals, or health care systems, legally or operationally associated with one or more hospitals in a planning region.

"Nursing facility" means those facilities or components thereof licensed to provide long-term nursing care.

Regulations

~~"Nursing facility beds" means inpatient beds that are located in distinct units of general hospitals that are licensed as long-term care units by the department. Beds in these long term units are not included in the calculations of inpatient bed need.~~

"Obstetrical services" means the distinct organized program, equipment and care related to pregnancy and the delivery of newborns in inpatient facilities.

"Off-site replacement" means the relocation of existing beds or services from an existing medical care facility site to another location within the same [health] planning district.

~~"Open heart surgery" means a set of surgical procedures using a heart lung bypass machine or pump to perform extracorporeal circulation and oxygenation during surgery. This technique is used when the heart must be slowed down to correct congenital and acquired cardiac and coronary artery disease; a surgical procedure requiring the use or immediate availability of a heart-lung bypass machine or "pump." The use of the pump during the procedure distinguishes "open heart" from "closed heart" surgery.~~

~~"Operating room" means a room, meeting the requirements of 12VAC5-410-820, in a licensed general or outpatient surgical hospital used solely or principally for the provision of surgical procedures [;] excluding endoscopic and cystoscopic procedures [especially those] involving the administration of anesthesia, multiple personnel, recovery room access, and a fully controlled environment. [This does not include rooms designated as procedure rooms or rooms dedicated exclusively for the performance of cesarean sections.]~~

"Operating room use" means the amount of time a patient occupies an operating room, plus the estimated or actual and includes room preparation and cleanup time.

"Operating room visit" means one session in one operating room in a licensed general an inpatient hospital or outpatient surgical hospital center, which may involve several procedures. Operating room visit may be used interchangeably with "operation" or "case."

[~~"Outpatient surgery" "Outpatient"] means services [those surgical procedures provided to individuals who are not expected to require overnight hospitalization but who require treatment in a medical care facility exceeding the normal capability found in a physician's office a patient who visits a hospital, clinic, or associated medical care facility for diagnosis or treatment, but is not hospitalized 24 hours or longer]. [For the purposes of this chapter, outpatient services surgery refers only to surgical services provided in operating rooms in licensed general inpatient hospitals or licensed outpatient surgical hospitals centers, and does not include surgical services provided in outpatient departments, emergency rooms, or treatment procedure rooms of hospitals, or physicians' offices.]~~

"Pediatric" means patients [younger than] 18 years of age [and younger]. Newborns in nurseries are excluded from this definition.

[~~"Pediatric cardiac catheterization" means the cardiac catheterization of patients] less than 21 years of age [18 years of age and younger.]~~

"Perinatal services" means those resources and capabilities that all hospitals offering general level newborn services as described in ~~12VAC5-410-440 D 2 a (1)~~ 12VAC5-410-443 of the Rules and Regulations for the Licensure of Hospitals must provide routinely to newborns.

"PET/CT scanner" means a single machine capable of producing a PET image with a concurrently produced CT image overlay to provide anatomic definition to the PET image. For the purpose of [~~granting~~ granting] a COPN, the Board of Health pursuant to § 32.1-102.2 A 6 of the Code of Virginia has designated PET/CT as a specialty clinical services. A PET/CT scanner shall be reviewed under the PET criteria as an enhanced PET scanner unless the CT unit will be used independently. In such cases, a PET/CT scanner that will be used to take independent PET and CT images will be reviewed under the applicable PET and CT services criteria.

~~"Physician" means a person licensed by the Board of Medicine to practice medicine or osteopathy in Virginia.~~

[~~"Planning district" means a contiguous area within the boundaries established by the Virginia Department of Housing and Community Development or its successor.]~~

"Planning horizon year" means the particular year for which bed or service needs are projected.

"Population" means the census figures shown in the most current series of projections published by ~~the Virginia Employment Commission~~ a demographic entity as determined by the commissioner.

"Positron emission tomography" or "PET" means a noninvasive diagnostic or imaging modality using the computer-generated image of local metabolic and physiological functions in tissues produced through the detection of gamma rays emitted when introduced radionuclids decay and release positrons. ~~A PET system includes two major elements: (i) a cyclotron that produces radio-pharmaceuticals and (ii) a scanner that includes a data acquisition system and a computer. A PET device or scanner may include an integrated CT to provide anatomic structure definition.~~

"Primary service area" means the geographic territory from which 75% of the patients of an existing medical care facility originate with respect to a particular service being sought in an application.

"Procedure" means a study or treatment or a combination of studies and treatments identified by a distinct [ICD9 ICD-9] or CPT code performed in a single session on a single patient.

"Quality of care" means to the degree to which services provided are properly matched to the needs of the population, are technically correct, and achieve beneficial impact. Quality of care can include consideration of the appropriateness of physical resources, the process of producing and delivering services, and the outcomes of services on health status, the environment, and/or behavior.

"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia or having appropriate training, including competency testing, and experience commensurate with assigned responsibilities.

"Radiation therapy" means ~~the treatment of disease with radiation, especially by selective irradiation with x rays or other ionizing radiation and by ingestion of radioisotopes [a clinical specialty, including radioisotope therapy, in which ionizing radiation is used for treatment of cancer or other diseases, often in conjunction with surgery or chemotherapy or both. The predominant form of radiation therapy involves an external source of radiation whose energy is focused on the diseased area treatment using ionizing radiation to destroy diseased cells and for the relief of symptoms].~~ [~~Radioisotope therapy is a process involving the direct application of a radioactive substance to the diseased tissue and usually requires surgical implantation~~ Radiation therapy may be used alone or in combination with surgery or chemotherapy].

"Relevant reporting period" means the most recent 12-month period, prior to the beginning of the applicable batch review cycle, for which data is available from ~~the Virginia Employment Commission, Virginia Health Information, or other source identified by the department VHI or a demographic entity as determined by the commissioner.~~

"Rural" means territory, population, and housing units that are classified as "rural" by the Bureau of the Census of the United States Department of Commerce, Economic and Statistics Administration.

~~"State medical facilities plan" or "SMFP" means the planning document adopted by the Board of Health that includes, but is not limited to (i) methodologies for projecting need for medical facility beds and services; (ii) statistical information on the availability of medical facility beds and services; and (iii) procedures, criteria and standards for the review of applications for projects for medical care facilities and services~~ "SMFP" means the state medical facilities plan as contained in Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia used to make medical care facilities and services needs decisions.

"Stereotactic radiosurgery" or "SRS" means [~~a noninvasive one session therapeutic procedure for precisely locating~~

~~diseased points within the body using an external, a 3-dimensional frame of reference the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a therapeutic dose to a tissue volume]. A stereotactic instrument is attached to the body and used to localize precisely an area in the body by means of coordinates related to anatomical structures. [An example of a stereotactic radiosurgery instrument is a Gamma Knife® unit. Stereotactic radiotherapy means more than one session is required. One SRS procedure equals three standard radiation therapy procedures SRS may be delivered in a single session or in a fractionated course of treatment up to five sessions].~~

["Stereotactic radiotherapy" or "SRT" means more than one session of stereotactic radiosurgery.]

"Study" or "scan" means ~~the gathering of data during a single patient visit from which one or more images may be constructed for the purpose of reaching a definitive clinical diagnosis.~~

"Substance abuse disorder treatment services" means services provided to individuals for the prevention, diagnosis, treatment, or palliation of chemical dependency, which may include attendant medical and psychiatric complications of chemical dependency. Substance abuse disorder treatment services are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Supervision" means to direct and watch over the work and performance of others.

~~"The center" means the Center for Quality Health Care Services and Consumer Protection.~~

"Use rate" means the rate at which an age cohort or the population uses medical facilities and services. The rates are determined from periodic patient origin surveys conducted for the department by the regional health planning agencies, or other health statistical reports authorized by Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1 of the Code of Virginia.

"VHI" means the health data organization defined in § 32.1-276.4 of the Code of Virginia and under contract with the Virginia Department of Health.

12VAC5-230-20. Preface. ~~Responsibility of the department. (Repealed.)~~

Virginia's Certificate of Public Need law defines the State Medical Facilities Plan as the "planning document adopted by the Board of Health which shall include, but not be limited to, (i) methodologies for projecting need for medical facility beds and services; (ii) statistical information on the availability of medical facility beds and services; and (iii) procedures, criteria and standards for the review of applications for projects for medical care facilities and services." (§ 32.1-102.1 of the Code of Virginia.)

Regulations

~~Section 32.1 102.3 of the Code of Virginia states that, "Any decision to issue or approve the issuance of a certificate (of public need) shall be consistent with the most recent applicable provisions of the State Medical Facilities Plan; provided, however, if the commissioner finds, upon presentation of appropriate evidence, that the provisions of such plan are not relevant to a rural locality's needs, inaccurate, outdated, inadequate or otherwise inapplicable, the commissioner, consistent with such finding, may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to such plan."~~

~~Subsection B of § 32.1 102.3 of the Code of Virginia requires the commissioner to consider "the relationship" of a project "to the applicable health plans of the board" in "determining whether a public need for a project has been demonstrated."~~

~~This State Medical Facilities Plan is a comprehensive revision of the criteria and standards for COPN reviewable medical care facilities and services contained in the Virginia State Health Plan established from 1982 through 1987, and the Virginia State Medical Facilities Plan, last updated in July, 1988. This Plan supersedes the State Health Plan 1980-1984 and all subsequent amendments thereto save those governing facilities or services not presently addressed in this Plan.~~

~~A. Sections 32.1 102.1 and 32.1 102.3 of the Code of Virginia requires the Board of Health to adopt a planning document for review of COPN applications and that decisions to issue a COPN shall be consistent with the most recent provisions of the State Medical Facilities Plan.~~

~~B. The commissioner is the designated decision maker in the process of determining public need.~~

~~C. The center is a unit of the department responsible for administering the COPN program under the direction of the commissioner.~~

~~D. The regional health planning agencies assist the department in determining whether a certificate should be granted.~~

~~E. The center's COPN staff is available to answer questions and provide technical assistance throughout the application process.~~

~~F. In developing or revising standards for the COPN program, the board adheres to the requirements of the Administrative Process Act and the public participation process. The department, acting for the board, solicits input from applicants, applicant representatives, industry associations, and the general public in the development or revision of these criteria through informal and formal comment periods and may hold public hearings, as appropriate.~~

~~G. If, upon presentation of appropriate evidence, the commissioner finds that the provisions of this chapter are not relevant to a rural locality's needs, or are inaccurate, outdated, inadequate or otherwise inapplicable, he may issue or approve the issuance of a certificate and shall initiate procedures to make appropriate amendments to this chapter.~~

12VAC5-230-30. Guiding principles in certificate of public need the development of project review criteria and standards.

~~[A] The following general principles will be used in guiding the implementation of the Virginia Medical Care Facilities Certificate of Public Need (COPN) Program and have served serve as the basis for the development of the review criteria and standards for specific medical care facilities and services contained in this document:~~

- ~~1. The COPN program will give preference to requests that encourage medical care facility and service development approaches which can document improvement in that improve the cost effectiveness of health care delivery. Providers should strive to develop new facilities and equipment and use already available facilities and equipment to deliver needed services at the same or higher levels of quality and effectiveness, as demonstrated in patient outcomes, at lower costs is based on the understanding that excess capacity [and or] underutilization of medical facilities are detrimental to both cost effectiveness and quality of medical services in Virginia.~~
- ~~2. The COPN program will seek seeks to achieve a balance between appropriate the levels of availability and access to medical care facilities and services for all the citizens of Virginia of Virginia's citizens and the need to constrain excess facility and service capacity the geographical [dispersion distribution] of medical facilities and to promote the availability and accessibility of proven technologies.~~
- ~~3. The COPN program will seek [seeks] to achieve economies of scale in development and operation, and optimal quality of care, through establishing limits on the development of specialized medical care facilities and services, on a statewide, regional, or planning district basis [promotes to promote] the development and maintenance of services and access to those services by every person who needs them without respect to their ability to pay.~~
- ~~4. The COPN program will give preference to [seeks] to promote the development and maintenance of needed services which are accessible to every person who can benefit from the services regardless of their ability to pay [encourages to encourage] the conversion of facilities to new and efficient uses and the reallocation of resources to meet evolving community needs.~~

5. ~~The COPN program will promote the elimination of excess facility and service capacity. The COPN program will promote the promotes the elimination and conversion of excess facility and service capacity to meet identified needs discourages the proliferation of services that would undermine the ability of essential community providers to maintain their financial viability. The COPN program will not facilitate the survival of medical care facilities and services which have rendered superfluous by changes in health care delivery and financing.~~

12VAC5-230-40. General application filing criteria.

A. ~~In addition to meeting the applicable requirements of the State Medical Facilities Plan this chapter, applicants for a Certificate of Public Need shall provide~~ include documentation in their application that their ~~proposal~~ project addresses the applicable ~~20 considerations~~ requirements listed in § 32.1-102.3 of the Code of Virginia.

B. ~~Facilities and services shall be provided in locations that meet established zoning regulations, as applicable The burden of proof shall be on the applicant to produce information and evidence that the project is consistent with the applicable requirements and review policies as required under Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.~~

C. ~~The department shall consider an application complete when all requested information, and the application fee, is submitted on the form required. If the department finds the application incomplete, the applicant will be notified in writing and the application may be held for possible review in the next available applicable batch review cycle The commissioner may condition the approval of a COPN by requiring an applicant to: (i) provide a level of care at a reduced rate to indigents, (ii) accept patients requiring specialized care, or (iii) facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area. The applicant must actively seek to comply with the conditions place on any granted COPN.~~

12VAC5-230-50. Project costs.

~~The capital development and operating costs for providing services should be comparable to similar services in the health planning region The capital development costs of a facility and the operating expenses of providing the authorized services should be comparable to the costs and expenses of similar facilities with the health planning region.~~

12VAC5-230-60. Preferences When competing applications received.

~~In the review of reviewing competing applications, preference [consideration will preference may] be given [to] applicants [the when an] applicant who:~~

~~1. Who have~~ Has an established performance record in completing projects on time and within the authorized operating expenses and capital costs;

~~2. Whose proposals have~~ Has both lower ~~direct construction costs and cost of equipment~~ capital costs and operating expenses than ~~their~~ his competitors and can demonstrate that ~~their cost~~ his estimates are credible;

~~3. Who can demonstrate a commitment to facilitate the transport of patients residing in rural areas or medically underserved areas of urban localities to needed services, directly or through coordinated efforts with other organizations;~~

~~4. Who can~~ 3. Can demonstrate a consistent compliance with state licensure and federal certification regulations and a consistent history of few documented complaints, where applicable; or

~~5. Who can~~ 4. Can demonstrate a commitment to enhancing financial accessibility to services through the provision of documented charity care, exclusive of bad debts and disallowances from payers, and services to Medicaid beneficiaries serving [~~their~~ his] community or service area as evidenced by unreimbursed services to the indigent and providing needed but unprofitable services, taking into account the demands of the particular service area.

12VAC5-230-70. Emerging technologies [Prorating of mobile service volume requirements Calculation of utilization of services provided with mobile equipment].

~~Inasmuch as the SMFP cannot contemplate all possible future applications and advances in the regulated technologies, these future applications and technological advances will be evaluated based on emerging national trends and evidence in the peer review literature. Until such time as the SMFP can be updated to reflect changes, emerging technologies should be registered with the center following 12VAC5-220-110 of the Virginia Administrative Code.~~

~~[A. The required minimum service volumes for the establishment of services and the addition of capacity for mobile services shall be prorated on a "site by site" basis based on the amount of time the mobile services will be operational at each site using the following formula:~~

$$\frac{\text{Prorated annual volume (not to exceed the required full time volume)}}{\text{Required full time annual volume}} = \frac{\text{Number of days the services will be on site each week} \times .02}{\text{Required full time annual volume}}$$

Regulations

A. The minimum service volume of a mobile unit shall be prorated on a site-by-site basis reflecting the amount of time that proposed mobile units will be used, and existing mobile units have been used, during the relevant reporting period, at each site using the following formula:

$$\frac{\text{Required full-time minimum service volume} \times \text{Number of days the service will be on site each week}}{0.2} = \text{Prorated minimum services volume (not to exceed the required full-time minimum service volume)]}$$

B. ~~[This section does not prohibit an applicant from seeking to obtain a COPN for a fixed site service provided capacity for the service has been achieved as described in the applicable service section]~~ The average annual utilization of existing and approved CT, MRI, PET, lithotripsy, and catheterization services in a health planning district shall be calculated for such services as follows:

$$\left(\frac{\text{Total volume of all units of the relevant service in the reporting period}}{\left(\frac{\text{\# of existing or approved fixed units} \times \text{Fixed unit minimum service volume}}{\text{Utilization}} \right) \pm \text{Y}} \right) \times 100 = \% \text{ Average Utilization}$$

Y = the sum of the minimum service volume of each mobile site in the health planning district with the minimum services volume for each such site prorated according to subsection A of this section.

C. This section does not prohibit an applicant from seeking to obtain a COPN for a fixed site service provided capacity for the services has been achieved as described in the applicable service section.]

D. Applicants shall not use this section to justify a need to establish new services.

12VAC5-230-80. Institutional need When institutional expansion needed.

A. Notwithstanding any other provisions of this chapter, ~~consideration will be given to~~ the commissioner may grant approval for the expansion of services at an existing medical care ~~facilities~~ facility in a [health] ~~planning districts~~ district with an excess supply of such services when the proposed expansion can be justified on the basis of ~~facility-specific utilization~~ a facility's need having exceeded its current service capacity to provide such service or on the geographic remoteness of the facility.

B. If a facility with an institutional need to expand is part of a ~~network~~ health system, the underutilized services at other facilities within the ~~network should be relocated~~ health system should be reallocated, when appropriate, to the facility ~~within the planning district~~ with the institutional need ~~when possible~~ to expand before additional services are approved for the applicant. However, underutilized services located at a health system's geographically remote facility may be disregarded when determining institutional need for the proposed project.

C. This section is not applicable to nursing facilities pursuant to § 32.1-102.3:2 of the Code of Virginia.

~~12VAC5-230-90. Compliance with the terms of a condition.~~

~~A. The commissioner may condition the approval of a COPN to provide care to Virginia's indigent population, patients with specialized needs, or the medically underserved.~~

~~B. The applicant shall actively seek to provide opportunities to offer the conditioned service directly to indigent or uninsured persons at a reduced rate or free of charge to patients with specialized needs, or by the facilitation of primary care services in designated medically underserved areas.~~

~~C. If the direct provision of the conditioned services does not fulfill the terms of the condition, the center may determine the applicant to be in compliance with the terms of the condition when:~~

~~1. The applicant is part of a facility or provider network and the facility or provider network has provided reduced rate or uncompensated care at or above the regional standard; or~~

~~2. The applicant provides direct financial support for community based health care services at a value equal to or greater than the difference between the terms of the condition and the amount of direct care provided.~~

~~Such direct financial support shall be in addition to, and not a substitute for, other charitable giving chosen by the applicant.~~

~~D. Acceptable proof for direct financial support is a signed receipt indicating the number or amount of services or other support provided and dollar value of that service or support. Applicants providing direct financial support for community based health care services should render that support through one of the following organizations:~~

- ~~1. The Virginia Association of Free Clinics;~~
- ~~2. The Virginia Health Care Foundation; or~~
- ~~3. The Virginia Primary Care Association.~~

~~E. Applicants shall demonstrate compliance with the terms of a condition for the previous 12 month period. The written condition report shall be certified or affirmed by the applicants and filed with the center. Such report shall include, but is not limited to, the:~~

- ~~1. Facility or service name and address;~~
- ~~2. Certificate number;~~
- ~~3. Facility or service gross patient revenues;~~
- ~~4. Dollar value of the charity care provided, excluding bad debts and disallowances from payers; and~~
- ~~5. Number of individuals served by the direct provision of care or a receipt from one of the allowable organizations listed in subsection D of this section.~~

Part II
Diagnostic Imaging Services

Article 1
Criteria and Standards for Computed Tomography

12VAC5-230-100. Accessibility 12VAC5-230-90. Travel time.

~~CT services should be within 30 minutes driving time one way, under normal conditions, of 95% of the population of the [health] planning district [using a mapping software as determined by the commissioner].~~

12VAC5-230-110 12VAC5-230-100. Need for new fixed site [or mobile] service.

~~A. No CT service should be approved at a location that is within 30 minutes driving time one way of:~~

- ~~1. A service that is not yet operational; or~~
- ~~2. An existing CT unit that has performed fewer than 3,000 scans during the relevant reporting period.~~

~~B. A. No new fixed site [or mobile] CT service or network shall be approved unless all existing fixed site CT services or networks in the [health] planning district~~

~~performed an average of 4,500 CT scans per machine during the relevant reporting period. [10,000 7,400] procedures per existing and approved CT scanner during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing [fixed site] providers in the [health] planning district [below 10,000 procedures]. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of CT scanners in such [health] planning district.~~

~~C. Consideration may be given to new CT services proposed for sites located beyond 30 minutes driving time one way of existing facilities that do not meet the 4,500 scans per machine criterion if the proposed sites are in rural areas B. [Existing] CT scanners [to be] used solely for simulation with radiation therapy treatment shall be exempt from [the utilization criteria of] this article [when applying for a COPN. In addition, existing CT scanners used solely for simulation with radiation therapy treatment may be disregarded in computing the average utilization of CT scanners in such health planning district].~~

12VAC5-230-120 12VAC5-230-110. Expansion of existing fixed site service.

~~Proposals to increase the number of CT scanners in expand an existing medical care facility's CT service or network may through the addition of a CT scanner should be approved only if when the existing service or network services performed an average of 3,000 CT scans [10,000 7,400] procedures per scanner for the relevant reporting period. The commissioner may authorize placement of a new unit at the applicant's existing medical care facility or at a separate location within the applicant's primary service area for CT services, provided the proposed expansion is not likely to significantly reduce the utilization of existing providers in the [health] planning district [below 10,000 procedures].~~

12VAC5-230-120. Adding or expanding mobile CT services.

~~A. Proposals for mobile CT scanners shall demonstrate that, for the relevant reporting period, at least 4,800 procedures were performed and that the proposed mobile unit will not significantly reduce the utilization of existing CT providers in the [health] planning district [below 10,000 procedures for fixed site scanners or 4,800 procedures for mobile scanners].~~

~~B. Proposals to convert [authorized] mobile CT scanners to fixed site scanners shall demonstrate that, for the relevant reporting period, at least 6,000 procedures were performed [by the mobile scanner] and that the proposed conversion will not significantly reduce the utilization of existing CT providers in the [health] planning district [below 10,000 procedures for fixed site scanners or 4,800 procedures for mobile scanners].~~

Regulations

12VAC5-230-130. Staffing.

~~Providers of CT services should be under the direct supervision of one or more board certified diagnostic radiologists direction or supervision of one or more qualified physicians.~~

12VAC5-230-140. Space.

~~Applicants shall provide documentation that:~~

~~1. A suitable environment will be provided for the proposed CT services, including protection against known hazards; and~~

~~2. Space will be provided for patient waiting, patient preparation, staff and patient bathrooms, staff activities, storage of records and supplies, and other space necessary to accommodate the needs of handicapped persons.~~

Article 2

Criteria and Standards for Magnetic Resonance Imaging

12VAC5-230-150. Accessibility. 12VAC5-230-140. Travel time.

~~MRI services should be within 30 minutes driving time one way, under normal conditions, of 95% of the population of the [health] planning district [using a mapping software as determined by the commissioner].~~

Article 2

Criteria and Standards for Magnetic Resonance Imaging

12VAC5-230-160 12VAC5-230-150. Need for new fixed site service.

~~A. No new fixed site MRI services shall should be approved unless all existing fixed site MRI services in the [health] planning district performed an average of 4,000 scans per machine 5,000 procedures per existing and approved fixed site MRI scanner during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing fixed site MRI providers in the [health] planning district [below 5,000 procedures]. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of MRI scanners in such [health] planning district.~~

~~B. Consideration may be given to new MRI services proposed for sites located beyond 30 minutes driving time one way of existing facilities that do not meet the 4,000 scans per machine criterion of the prospered sites are in rural areas.~~

12VAC5-230-170 12VAC5-230-160. Expansion of services fixed site service.

~~Proposals to expand an existing medical care facility's MRI services through the addition of a new scanning unit of an MRI scanner may be approved if when the existing service performed at least 4,000 scans an average of 5,000 MRI~~

~~procedures per existing unit scanner during the relevant reporting period. The commissioner may authorize placement of the new unit at the applicant's existing medical care facility, or at a separate location within the applicant's primary service area for MRI services, provided the proposed expansion is not likely to significantly reduce the utilization of existing providers in the [health] planning district [below 5,000 procedures].~~

12VAC5-230-170. Adding or expanding mobile MRI services.

~~A. Proposals for mobile MRI scanners shall demonstrate that, for the relevant reporting period, at least 2,400 procedures were performed and that the proposed mobile unit will not significantly reduce the utilization of existing MRI providers in the [health] planning district [below 2,400 procedures for mobile scanners].~~

~~B. Proposals to convert [authorized] mobile MRI scanners to fixed site scanners shall demonstrate that, for the relevant reporting period, 3,000 procedures were performed [by the mobile scanner] and that the proposed conversion will not significantly reduce the utilization of existing MRI providers in the [health] planning district [below 5,000 procedures for fixed site scanners and 2,400 procedures for mobile scanners].~~

12VAC5-230-180. Staffing.

~~MRI machines services should be under the direct, on-site supervision of one or more board certified diagnostic radiologists direct supervision of one or more qualified physicians.~~

12VAC5-230-190. Space.

~~Applicants should provide documentation that:~~

~~1. A suitable environment will be provided for the proposed MRI services, including shielding and protection against known hazards; and~~

~~2. Space will be provided for patient waiting, patient preparation, staff and patient bathrooms, staff activities, storage of records and supplies, and other space necessary to accommodate the needs of handicapped persons.~~

Article 3

Magnetic Source Imaging

12VAC5-230-200 12VAC5-230-190. Policy for the development of MSI services.

~~Because Magnetic Source Imaging (MSI) scanning systems are still in the clinical research stage of development with no third-party payment available for clinical applications, and because it is uncertain as to how rapidly this technology will reach a point where it is shown to be clinically suitable for widespread use and distribution on a cost-effective basis, it is preferred that the entry and development of this technology in~~

Virginia should initially occur at or in affiliation with, the academic medical centers in the state.

Article 4

Positron Emission Tomography

12VAC5-230-210 12VAC5-230-200. Accessibility Travel time.

~~The service area for each proposed PET service shall be an entire planning district. PET services should be within 60 minutes driving time one way under normal conditions of 95% of the [health] planning district [using a mapping software as determined by the commissioner].~~

Article 4

Positron Emission Tomography

12VAC5-230-220 12VAC5-230-210. Need for new fixed site service.

~~A. Whether the applicant is a consortium of hospitals, a hospital network, or a single general hospital, at least 850 new PET appropriate cases should have been diagnosed in the planning district. If the applicant is a hospital, whether free-standing or within a hospital system, 850 new PET appropriate cases shall have been diagnosed and the hospital shall have provided radiation therapy services with specific ancillary services suitable for the equipment before a new fixed site PET service should be approved for the [health] planning district.~~

~~B. If the applicant is a general hospital, the facility shall provide radiation therapy services and specific ancillary services suitable for the equipment, and have reported at least 500 new courses of treatment or at least 8,000 treatment visits in the most recent reporting period. No new fixed site PET services should be approved unless an average of 6,000 procedures [preexisting per existing] and approved fixed site PET scanner were performed in the [health] planning district during the relevant reporting period and the proposed new service would not significantly reduce the utilization of existing fixed site PET providers in the [health] planning district [below 6,000 procedures]. The utilization of existing scanners operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of PET units in such [panning health planning] district.~~

~~Note: For the purposes of tracking volume utilization, an image taken with a PET/CT scanner that takes concurrent PET/CT images shall be counted as one PET procedure. Images made with PET/CT scanners that can take PET or CT images independently shall be counted as individual PET procedures and CT procedures respectively, unless those images are made concurrently.~~

~~C. If the applicant is a consortium of general hospitals or a hospital network, at least one of the consortium or network~~

~~members shall provide radiation therapy services and specific ancillary services suitable for the equipment, and have reported at least 500 new PET appropriate patients.~~

~~D. Future applications of PET equipment shall be evaluated based on review of national literature.~~

12VAC5-230-230. Additional scanners. 12VAC5-230-220. Expansion of fixed site services.

~~No additional PET scanners shall be added in a planning district unless the applicant can demonstrate that the utilization of the existing PET service was at least 1,200 PET scans for a fixed site unit and that the proposed new or expanded service would not reduce the utilization after for existing services below 850 PET scans for a fixed site unit. The applicant shall also provide documentation that he project complies with 12VAC50-230-240. Proposals to increase the number of PET scanners in an existing PET service should be approved only when the existing scanners performed an average of 6,000 procedures for the relevant reporting period and the proposed expansion would not significantly reduce the utilization of existing fixed site providers in the [health] planning district [below 6,000 procedures].~~

12VAC5-230-230. Adding or expanding mobile PET or PET/CT services.

~~A. Proposals for mobile PET or PET/CT scanners [shall should] demonstrate that, for the relevant reporting period, at least 230 [procedures were performed PET or PET/CT appropriate patients were seen] and that the proposed mobile unit will not significantly reduce the utilization of existing providers in the [health] planning district [below 6,000 procedures for the fixed site PET providers or 230 procedures for the mobile PET providers].~~

~~B. Proposals to convert [authorized] mobile PET or PET/CT scanners to fixed site scanners should demonstrate that, for the relevant reporting period, at least 1,400 procedures were performed [by the mobile scanner] and that the proposed conversion will not significantly reduce the utilization of existing providers in the [health] planning district [below 6,000 procedures for the fixed site PET or 230 procedures of the mobile PET providers].~~

12VAC5-230-240. Staffing.

~~PET services should be under the direction of a physician who is a board certified radiologist or supervision of one or more qualified physicians. Such physician physicians shall be a designated [or] authorized user [users of isotopes used for PET] by the Nuclear Regulatory Commission or licensed by the Office Division of Radiologic Health of the Virginia Department of Health, as applicable.~~

Regulations

Article 5

Noncardiac Nuclear Imaging Criteria and Standards

12VAC5-230-250. ~~Accessibility~~ Travel time.

~~Noncardiac nuclear imaging services should be available within 30 minutes driving time one way, under normal driving conditions, of 95% of the population of the [health] planning district [using a mapping software as determined by the commissioner].~~

12VAC5-230-260. ~~Introduction of a service~~ Need for new service.

~~Any applicant proposing to establish a medical care facility for the provision of noncardiac nuclear imaging, or introducing nuclear imaging as a new service at an existing medical care facility, shall provide documentation that No new noncardiac imaging services should be approved unless the service can achieve a minimum utilization level of:~~

~~(i) 650 scans 1. 650 procedures in the first 12 months of operation;~~

~~(ii) 1,000 scans 2. 1,000 procedures in the second 12 months of services, and (iii) 1,250 scans service in the second 12 months of operation service; and~~

~~3. The proposed new service would not significantly reduce the utilization of existing providers in the [health] planning district.~~

~~Note: The utilization of an existing service operated by a hospital and serving an area distinct from the proposed new service site may be disregarded in computing the average utilization of noncardiac nuclear imaging services in such [health] planning district.~~

12VAC5-230-270. Staffing.

~~The proposed new or expanded noncardiac nuclear imaging service shall be under the direction of a board certified physician or supervision of one or more qualified physicians a designated [or] authorized user [users of isotopes licensed] by the Nuclear Regulatory Commission or the Office Division of Radiologic Health of the Virginia Department of Health, as applicable.~~

Part III

Radiation Therapy Services

Article 1

Radiation Therapy Services

12VAC5-230-280. ~~Accessibility~~ Travel time.

~~Radiation therapy services should be available within 60 minutes driving time one way, under normal conditions, for of 95% of the population of the [health] planning district [using a mapping software as determined by the commissioner].~~

12VAC5-230-290. ~~Availability~~ Need for new service.

~~A. No new radiation therapy service [shall should] be approved unless:~~

~~(i) existing 1. Existing radiation therapy machines located in the [health] planning district were used for at least 320 cancer cases and at least performed an average of 8,000 [treatment visits procedures per existing and approved radiation therapy machine] for in the relevant reporting period; and~~

~~(ii) it can be reasonably projected that the 2. The new service will perform at least 6,000 5,000 procedures by the third second year of operation without significantly reducing the utilization of existing radiation therapy machines within 60 minutes drive time one way, under normal conditions, such that less than 8,000 procedures will be performed by an existing machine providers in the [health] planning district.~~

~~B. The number of radiation therapy machines needed in a primary service area [health] planning district will be determined as follows:~~

$$\frac{\text{Population} \times \text{Cancer Incidence Rate} \times 60\%}{320}$$

320

~~where:~~

~~1. The population is projected to be at least 75,000 150,000 people three years from the current year as reported in the most current projections of the Virginia Employment Commission a demographic entity as determined by the commissioner;~~

~~2. The "cancer incidence rate" is based on as determined by data from the Statewide Cancer Registry;~~

~~3. 60% is the estimated number of new cancer cases in a [health] planning district that are treatable with radiation therapy; and~~

~~4. 320 is 100% utilization of a radiation therapy machine based upon an anticipated average of 25 [treatment visits procedures] per case.~~

~~C. Consideration will be given to the approval of Proposals for new radiation therapy services located at a general hospital at least less than 60 minutes driving time one way, under normal conditions, from any site that radiation therapy services are available if the applicant can shall demonstrate that the proposed new services will perform at least an average of 4,500 [treatment] procedures annually by the second year of operation, without significantly reducing the utilization of existing machines located within 60 minutes driving time one way, under normal conditions, from the proposed new service location [providers services] in the [health] planning [region] district].~~

~~D. Proposals for the expansion of radiation therapy services should not be approved unless all existing radiation therapy machines operated by the applicant in the planning district have performed at least 8,000 procedures for the relevant reporting period.~~

12VAC5-230-300. Statewide Cancer Registry Expansion of service.

~~Facilities with radiation therapy services shall participate in the Statewide Cancer Registry as required by Article 9 (§ 32.1-70 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia~~

Proposals to [~~increase~~ expand] radiation therapy services should be approved only when all existing radiation therapy [~~machines~~ services] operated by the applicant in the [health] planning district have performed an average of 8,000 procedures for the relevant reporting period and the proposed expansion would not significantly reduce the utilization of existing providers [~~below 8,000 procedures~~].

12VAC5-230-310. Staffing Statewide Cancer Registry.

~~Radiation therapy services shall be under the direction of a physician board certified in radiation oncology~~ Facilities with radiation therapy services shall participate in the Statewide Cancer Registry as required by Article 9 (§ 32.1-70 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.

12VAC5-230-320. Equipment, patient care, support services Staffing.

~~In addition to the radiation therapy machine, the service should have direct access to:~~

- ~~1. Simulation equipment capable of precisely producing the geometric relations of the equipment to be used for treatment of the patient;~~
- ~~2. A computerized treatment planning system;~~
- ~~3. A custom block design and cutting system; and~~
- ~~4. Diagnostic laboratory oncology services~~

Radiation therapy services should be under the direction or supervision of one or more qualified physicians [~~Such physicians shall be~~] designated [or] authorized [~~users of isotopes licensed~~] by the Nuclear Regulatory Commission or the Division of Radiologic Health of the Virginia Department of Health, as applicable.

Article 2

Criteria and Standards for Stereotactic Radiosurgery

12VAC5-230-330. Availability; need for new service Travel time.

~~No new services should be approved unless (i) the number of procedures performed with existing units in the planning region average more than 350 per year and (ii) it can be~~

~~reasonably projected that the proposed new service will perform at least 250 procedures in the second year of operation without reducing patient volumes to existing providers to less than 350 procedures~~ Stereotactic radiosurgery services should be available within 60 minutes driving time one way under normal conditions of 95% of the population of a [health] planning [~~district~~ region using a mapping software as determined by the commissioner].

12VAC5-230-340. Statewide Cancer Registry Need for new service.

~~Facilities shall participate in the Statewide Cancer Registry as required by Article 9 (§ 32.1-70 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.~~

A. No new stereotactic radiosurgery services should be approved unless:

1. The number of procedures performed with existing units in the [health] planning region averaged more than 350 per year [in the relevant reporting period]; and
2. The proposed new service will perform at least 250 procedures in the second year of operation without significantly reducing the utilization of existing providers in the [health] planning region [~~below 350 treatments~~].

B. [~~Consideration~~ Preference] may be given to a [project that incorporates] stereotactic radiosurgery service incorporated within an existing standard radiation therapy service using a linear accelerator when an average of 8,000 [~~treatments~~ procedures] during the relevant reporting period [~~were performed and the applicant can demonstrate that the volume and cost of the service is justified~~ and utilization of existing services in the health planning region will not be significantly reduced].

C. [~~Consideration~~ Preference] may be given to a [project that incorporates a] dedicated Gamma Knife® [~~incorporated~~] within an existing radiation therapy service when:

1. At least 350 Gamma Knife® appropriate cases were referred out of the region in the relevant reporting period; and
2. The applicant can demonstrate that:
 - a. An average of 250 procedures will be performed in the second year of operation; [and]
 - b. Utilization of existing services in the [health] planning region will not be significantly reduced [~~below 350 treatments per year; and.~~]

[~~e. The cost is justified.~~]

D. [~~Consideration~~ Preference] may be given to [a project that incorporates] non-Gamma Knife® [SRS] technology

Regulations

[~~incorporated~~] within an existing radiation therapy service when:

- ~~1. The unit is not part of a linear accelerator;~~
- ~~2. An average of 8,000 radiation [~~treatments~~ procedures] per year were performed by the existing radiation therapy services;~~
- ~~3. At least 250 procedures will be performed within the second year of operation; and~~
- ~~4. Utilization of existing services in the [~~health~~] planning region will not be significantly reduced [~~below 350 treatments~~].~~

12VAC5-230-350. Staffing Expansion of service.

~~The proposed new or expanded stereotactic radiosurgery services shall be under the direction of a physician who is board certified in neurosurgery and a radiation oncologist with training in stereotactic radiosurgery~~

~~Proposals to increase the number of stereotactic radiosurgery services should be approved only when all existing stereotactic radiosurgery machines in the [~~health~~] planning region have performed an average of 350 procedures [per existing and approved unit] for the relevant reporting period and the proposed expansion would not significantly reduce the utilization of existing providers in the [~~health~~] planning region [~~below 350 procedures~~].~~

~~Part IV Cardiac Services~~

~~Article 1~~

~~Criteria and Standards for Cardiac Catheterization Services~~

12VAC5-230-360. ~~Accessibility~~ Statewide Cancer Registry.

~~Adult cardiac catheterization services should be accessible within 60 minutes driving time one way, under normal conditions, for 95% of the population of the planning district Facilities [with stereotactic radiosurgery services] shall participate in the Statewide Cancer Registry as required by Article 9 (§ 32.1-70 et seq.) of Chapter 2 of Title 32.1 of the Code of Virginia.~~

12VAC5-230-370. ~~Availability~~ Staffing.

~~A. No new fixed site cardiac catheterization laboratory should be approved unless:~~

- ~~1. All existing fixed site cardiac catheterization laboratories located in the planning district were used for at least 960 diagnostic equivalent cardiac catheterization procedures for the relevant reporting period; and~~
- ~~2. It can be reasonably projected that the proposed new service will perform at least 200 diagnostic equivalent procedures in the first year of operation, 500 diagnostic equivalent procedures in the second year of operation~~

~~without reducing the utilization of existing laboratories in the planning district to less than 960 diagnostic equivalent procedures at any of those existing laboratories.~~

~~B. Proposals for the use of freestanding or mobile cardiac catheterization laboratories shall be approved only if such laboratories will be provided at a site located on the campus of a general or community hospital. Additionally, applicants for proposed mobile cardiac catheterization laboratories shall be able to project that they will perform 200 diagnostic equivalent procedures in the first year of operation, 350 diagnostic equivalent procedures in the second year of operation without reducing the utilization of existing laboratories in the planning district to less than 960 diagnostic equivalent procedures at any of those existing laboratories.~~

~~C. Consideration may be given for the approval of new cardiac catheterization services located at a general hospital located 60 minutes or more driving time one way, under normal conditions, from existing laboratories, if it can be projected that the proposed new laboratory will perform at least 200 diagnostic equivalent procedures in the first year of operation, 400 diagnostic equivalent procedures in the second year of operation without reducing the utilization of existing laboratories located within 60 minutes driving time one way, under normal conditions, of the proposed new service location.~~

~~D. Proposals for the addition of cardiac catheterization laboratories shall not be approved unless all existing cardiac catheterization laboratories operated in the planning district by the applicant have performed at least 1,200 diagnostic equivalent procedures for the relevant reporting period, and the applicant can demonstrate that the expanded service will achieve a minimum of 200 diagnostic equivalent procedures per laboratory in the first 12 months of operation, 400 diagnostic equivalent procedures in the second 12 months of operation without reducing the utilization of existing cardiac catheterization laboratories in the planning district below 960 diagnostic equivalent procedures.~~

~~E. Emergency cardiac catheterization services shall be available within 30 minutes of admission to the facility.~~

~~F. No new or expanded pediatric cardiac catheterization services should be approved unless the proposed service will be provided at a hospital that:~~

- ~~1. Provides open heart surgery services, provides pediatric tertiary care services, has a pediatric intensive care unit and provides neonatal special care or has a cardiac intensive care unit and provides pediatric open heart surgery services; and~~
- ~~2. The applicant can demonstrate that each proposed laboratory will perform at least 100 pediatric cardiac catheterization procedures in the first year of operation and 200 pediatric cardiac catheterization procedures in the second year of operation.~~

~~G. Applications for new or expanded cardiac catheterization services that include nonemergent interventional cardiology services should not be approved unless emergency open heart surgery services are available within 15 minutes drive time in the hospital where the proposed cardiac catheterization service will be located.~~

~~Stereotactic radiosurgery services should be under the direction or supervision of one or more qualified physicians.~~

~~Part IV
Cardiac Services~~

~~Article 1~~

~~Criteria and Standards for Cardiac Catheterization Services~~

~~12VAC5-230-380. Staffing Travel time.~~

~~A. Cardiac catheterization services should have a medical director who is board certified in cardiology and clinical experience in the performing physiologic and angiographic procedures.~~

~~In the case of pediatric cardiac catheterization services, the medical director should be board certified in pediatric cardiology and have clinical experience in performing physiologic and angiographic procedures.~~

~~B. All physicians who will be performing cardiac catheterization procedures should be board certified or board eligible in cardiology and clinical experience in performing physiologic and angiographic procedures.~~

~~In the case of pediatric catheterization services, each physician performing pediatric procedures should be board certified or board eligible in pediatric cardiology and have clinical experience in performing physiologic and angiographic procedures.~~

~~C. All anesthesia services should be provided by or supervised by a board certified anesthesiologist.~~

~~In the case of pediatric catheterization services, the anesthesiologist should be experienced and trained in pediatric anesthesiology.~~

~~Cardiac catheterization services should be within 60 minutes driving time one way under normal conditions of 95% of the population of the [health] planning district [using mapping software as determined by the commissioner].~~

~~Article 2~~

~~Criteria and Standards for Open Heart Surgery~~

~~12VAC5-230-390. Accessibility Need for new service.~~

~~Open heart surgery services should be available 24 hours per day 7 days per week and accessible within a 60 minutes driving time one way, under normal conditions, for 95% of the population of the planning district.~~

A. No new fixed site cardiac catheterization [laboratory service] should be approved for a [health] planning district unless:

1. Existing fixed site cardiac catheterization [laboratories services] located in the [health] planning district performed an average of 1,200 cardiac catheterization DEPs [per existing and approved laboratory] for the relevant reporting period; [and]

2. The proposed new service will perform an average of 200 DEPs in the first year of operation and 500 DEPs in the second year of operation; and

3. The utilization of existing services in the [health] planning district will not be significantly reduced.

B. Proposals for mobile cardiac catheterization laboratories should be approved only if such laboratories will be provided at a site located on the campus of an inpatient hospital. Additionally, applicants for proposed mobile cardiac catheterization laboratories shall be able to project that they will perform an average of 200 DEPs in the first year of operation and 350 DEPs in the second year of operation without significantly reducing the utilization of existing laboratories in the [health] planning district below 1,200 procedures.

C. [Consideration Preference] may be given [for to a project that locates] new cardiac catheterization services [located] at an inpatient hospital that is 60 minutes or more driving time one way under normal conditions from existing [laboratories services] if the applicant can demonstrate that the proposed new laboratory will perform an average of 200 DEPs in the first year of operation and 400 DEPs in the second year of operation without significantly reducing the utilization of existing laboratories in the [health] planning district.

~~12VAC5-230-400. Availability Expansion of services.~~

~~A. No new open heart services should be approved unless:~~

~~1. The service will be made available in a general hospital with established cardiac catheterization services that have been used for at least 960 diagnostic equivalent procedures for the relevant reporting period and have been in operation for at least 30 months;~~

~~2. All existing open heart surgery rooms located in the planning district have been used for at least 400 open heart surgical procedures for the relevant reporting period; and~~

~~3. It can be reasonably projected that the proposed new service will perform at least 150 procedures per room in the first year of operation and 250 procedures per room in the second year of operation without reducing the utilization of existing open heart surgery programs in the planning district to less than 400 open heart procedures performed at those existing services.~~

Regulations

~~B. Notwithstanding subsection A of this subsection, consideration will be given to the approval of new open heart surgery services located at a general hospital more than 60 minutes driving time one way, under normal conditions, from any site in which open heart surgery services are currently available if it can be projected that the proposed new service will perform at least 150 open heart procedures in the first year of operation; and 200 procedures in the second year of operation without reducing the utilization of existing open heart surgery rooms to less than 400 procedures per room within 2 hours driving time one way, under normal conditions, from the proposed new service location.~~

~~Such hospitals should also have provided at least 960 diagnostic equivalent cardiac catheterization procedures during the relevant reporting period on equipment that has been in operation at least 30 months.~~

~~C. Proposals for the expansion of open heart surgery services should not be approved unless all existing open heart surgery rooms operated by the applicant have performed at least:~~

~~1. 400 adult equivalent open heart surgery procedures in the relevant reporting period when the proposed facility is within two hours driving time one way, under normal conditions, of an existing open heart surgery service; or~~

~~2. 300 adult equivalent open heart surgery procedures in the relevant reporting period when the applicant proposes expanding services in excess of two hours driving time, under normal conditions, of an existing open heart surgery service.~~

~~D. No new or expanded pediatric open heart surgery services should be approved unless the proposed new or expanded service is provided at a hospital that:~~

~~1. Has pediatric cardiac catheterization services that have been in operation for 30 months and have performed at least 200 pediatric cardiac catheterization procedures for the relevant reporting period; and~~

~~2. Has pediatric intensive care services and provides neonatal special care.~~

~~Proposals to increase cardiac catheterization services should be approved only when:~~

~~1. All existing cardiac catheterization laboratories operated by the applicant's facilities where the proposed expansion is to occur have performed an average of 1,200 DEPs [per existing and approved laboratory] for the relevant reporting period; and~~

~~2. The applicant can demonstrate that the expanded service will achieve an average of 200 DEPs per laboratory in the first 12 months of operation and 400 DEPs in the second 12 months of operation without significantly reducing the~~

~~utilization of existing cardiac catheterization laboratories in the [health] planning district.~~

12VAC5-230-410. Staffing Pediatric cardiac catheterization.

~~A. Open heart surgery services should have a medical director certified by the American Board of Thoracic Surgery in cardiovascular surgery with special qualifications and experience in cardiac surgery.~~

~~In the case of pediatric open heart surgery, the medical director shall be certified by the American Board of Thoracic Surgery in cardiovascular surgery and experience in pediatric cardiovascular surgery and congenital heart disease.~~

~~B. All physicians performing open heart surgery procedures should be board certified or board eligible in cardiovascular surgery, with experience in cardiac surgery. In addition to the cardiovascular surgeon who performs the procedure, there should be a suitably trained board certified or board eligible cardiovascular surgeon acting as an assistant during the open heart surgical procedure. There should also be present at least one board certified or board eligible anesthesiologist with experience in open heart surgery.~~

~~In the case of pediatric open heart surgery services, each physician performing and assisting with pediatric procedures should be board certified or board eligible in cardiovascular surgery with experience in pediatric cardiovascular surgery. In addition to the cardiovascular surgeon who performs the procedure, there should be a suitably trained board certified or board eligible cardiovascular surgeon acting as an assistant during the open heart surgical procedure. All pediatric procedures should include a board certified anesthesiologist with experience in pediatric anesthesiology and pediatric open heart surgery.~~

~~No new or expanded pediatric cardiac catheterization services should be approved unless:~~

~~1. The proposed service will be provided at an inpatient hospital with open heart surgery services, pediatric tertiary care services or specialty or subspecialty level neonatal special care;~~

~~2. The applicant can demonstrate that the proposed laboratory will perform at least 100 pediatric cardiac catheterization procedures in the first year of operation and 200 pediatric cardiac catheterization procedures in the second year of operation; and~~

~~3. The utilization of existing pediatric cardiac catheterization laboratories in the [health] planning district will not be reduced below 100 procedures per year.~~

Part V
General Surgical Services

12VAC5-230-420. Accessibility Nonemergent cardiac catheterization.

~~Surgical services should be available within 30 minutes driving time one way, under normal conditions, for 95% of the population of the planning district.~~

~~Proposals to provide elective interventional cardiac procedures such as PTCA, transseptal puncture, transthoracic left ventricle puncture, myocardial biopsy or any valvoplasty procedures, diagnostic pericardiocentesis or therapeutic procedures should be approved only when open heart surgery services are available on-site in the same hospital in which the proposed non-emergent cardiac service will be located.~~

12VAC5-230-430. Availability Staffing.

~~A. The combined number of inpatient and outpatient general purpose surgical operating rooms needed in a planning district, exclusive of Level I and Level II Trauma Centers dedicated to the needs of the trauma service, dedicated cesarean section rooms, or operating rooms designated exclusively for open heart surgery, will be determined as follows:~~

$$FOR = ((ORV/POP) \times (PROPOP)) \times AHORV$$

~~1600~~

~~ORV = the sum of total operating room visits (inpatient and outpatient) in the planning district in the most recent five years for which operating room utilization data has been reported by Virginia Health Information; and~~

~~POP = the sum of total population in the planning district in the most recent five years for which operating room utilization data has been reported by Virginia Health Information, as found in the most current projections of the Virginia Employment Commission.~~

~~PROPOP = the projected population of the planning district five years from the current year as reported in the most current projections of the Virginia Employment Commission.~~

~~AHORV = the average hours per general purpose operating room visit in the planning district for the most recent year for which average hours per general purpose operating room visit has been calculated from information collected by Virginia Health Information.~~

~~FOR = future general purpose operating rooms needed in the planning district five years from the current year.~~

~~1600 = available service hours per operating room per year based on 80% utilization of an operating room that is available 40 hours per week, 50 weeks per year.~~

~~B. Projects involving the relocation of existing general purpose operating rooms within a planning district may be authorized when it can be reasonably documented that such relocation will improve the distribution of surgical services within a planning district by making services available within 30 minutes driving time one way, under normal conditions, of 95% of the planning district's population.~~

~~A. Cardiac catheterization services should have a medical director who is board certified in cardiology and has clinical experience in performing physiologic and angiographic procedures.~~

~~In the case of pediatric cardiac catheterization services, the medical director should be board-certified in pediatric cardiology and have clinical experience in performing physiologic and angiographic procedures.~~

~~B. Cardiac catheterization services should be under the direct supervision or one or more qualified physicians. Such physicians should have clinical experience in performing physiologic and angiographic procedures.~~

~~Pediatric catheterization services should be under the direct supervision of one or more qualified physicians. Such physicians should have clinical experience in performing pediatric physiologic and angiographic procedures.~~

Part VI
General Inpatient Services

Article 2
Criteria and Standards for Open Heart Surgery

12VAC5-230-440. Accessibility Travel time.

~~Acute care inpatient facility beds A. Open heart surgery services should be within 30 60 minutes driving time one way, under normal conditions, of 95% of the population of a the [health] planning district [using mapping software as determined by the commissioner].~~

~~B. Such services shall be available 24 hours a day, seven days a week.~~

12VAC5-230-450. Availability Need for new service.

~~A. Subject to the provisions of 12VAC5-230-80, no new inpatient beds should be approved in any planning district unless:~~

~~1. The resulting number of beds does not exceed the number of beds projected to be needed, for each inpatient bed category, for that planning district for the fifth planning horizon year;~~

~~2. The average annual occupancy, based on the number of beds, is at least 70% (midnight census) for the relevant reporting period; or~~

Regulations

~~3. The intensive care bed capacity has an average annual occupancy of at least 65% for the relevant reporting period, based on the number of beds.~~

~~A. No new open heart services should be approved unless:~~

~~1. The service will be available in an inpatient hospital with an established cardiac catheterization service that has performed an average of 1,200 DEPs for the relevant reporting period and has been in operation for at least 30 months;~~

~~2. Open heart surgery [programs services] located in the [health] planning district performed an average of 400 open heart and closed heart surgical procedures for the relevant reporting period; and~~

~~3. The proposed new service will perform at least 150 procedures per room in the first year of operation and 250 procedures per room in the second year of operation without significantly reducing the utilization of existing open heart surgery [programs services] in the [health] planning district [below 400 open and closed heart procedures].~~

~~B. No proposal to replace or relocate inpatient beds to a location not contiguous to the existing site should be approved unless:~~

~~1. Off site replacement is necessary to correct life safety or building code deficiencies;~~

~~2. The population currently served by the beds to be moved will have reasonable access to the beds at the new site, or to neighboring inpatient facilities;~~

~~3. The beds to be replaced experienced an average annual utilization of 70% (midnight census) for general inpatient beds and 65% for intensive care beds in the relevant reporting period;~~

~~4. The number of beds to be moved off site is taken out of service at the existing facility; and~~

~~5. The off site replacement of beds results in: (i) a decrease in the licensed bed capacity; (ii) a substantial cost savings, cost avoidance, or consolidation of underutilized facilities; or (iii) generally improved operating efficiency in the applicant's facility or facilities.~~

~~B. [Consideration Preference] may be given to [a project that locates] new open heart surgery services [located] at an inpatient hospital more than 60 minutes driving time one way under normal condition from any site in which open heart surgery services are currently available [when and]:~~

~~1. The proposed new service will perform an average of 150 open heart procedures in the first year of operation and 200 procedures in the second year of operation without significantly reducing the utilization of existing open heart surgery rooms within two hours driving time one way~~

~~under normal conditions from the proposed new service location below 400 procedures per room; and~~

~~2. The hospital provided an average of 1,200 cardiac catheterization DEPs during the relevant reporting period in a service that has been in operation at least 30 months.~~

~~C. For proposals involving a capital expenditure of \$5 million or more, and involving the conversion of underutilized beds to medical/surgical, pediatric or intensive care, consideration will be given to a proposal if: (i) there is a projected need in the category of inpatient beds that would result from the conversion; and (ii) it can be demonstrated that the average annual occupancy of the beds to be converted would reach the standard in subdivisions B 1, 2 and 3 for the bed category that would result from the conversion, by the first year of operation.~~

~~D. In addition to the terms of 12VAC5-230-80, a need for additional general inpatient beds may be demonstrated if the total number of beds in a given category in the planning district is less than the number of such beds projected as necessary to meet demand in the fifth planning horizon year for which the application is submitted.~~

~~E. The number of medical/surgical beds projected to be needed in a planning district shall be computed as follows:~~

~~1. Determine the projected total number of medical/surgical and pediatric inpatient days for the fifth planning horizon year as follows:~~

~~a. Add the medical/surgical and pediatric inpatient days for the past three years for all acute care inpatient facilities in the planning district as reported in the Annual Survey of Hospitals;~~

~~b. Add the projected planning district population for the same three year period as reported by the Virginia Employment Commission;~~

~~c. Divide the total of the medical/surgical and pediatric inpatient days by the total of the population and express the resulting rate in days per 1,000 population;~~

~~d. Multiply the days per 1,000 population rate by the projected population for the planning district (expressed in thousands) for the fifth planning horizon year.~~

~~2. Determine the projected number of medical/surgical and pediatric beds that may be needed in the planning district for the planning horizon year as follows:~~

~~a. Divide the result in subdivision E 1 d of this subsection by 365;~~

~~b. Divide the quotient obtained by 0.80 in planning districts in which 50% or more of the population resides in nonrural areas or 0.75 in planning districts in which less than 50% of the population resides in nonrural areas.~~

3. Determine the projected number of medical/surgical and pediatric beds that may be established or relocated within the planning district for the fifth planning horizon year as follows:

a. Determine the number of medical/surgical and pediatric beds as reported in the inventory;

b. Subtract the number of beds identified in subdivision E 1 from the number of beds needed as determined in subdivision E 2 b of this subsection. If the difference indicated is positive, then a need may exist for additional medical/surgical or pediatric beds. If the difference is negative, then no need for additional beds exists.

F. The projected need for intensive care beds shall be computed as follows:

1. Determine the projected total number of intensive care inpatient days for the fifth planning horizon year as follows:

a. Add the intensive care inpatient days for the past three years for all inpatient facilities in the planning district as reported in the annual survey of hospitals;

b. Add the planning district's projected population for the same three year period as reported by the Virginia Employment Commission;

c. Divide the total of the intensive care days by the total of the population to obtain the rate in days per 1,000 population;

d. Multiply the days per 1,000 population rate by the projected population for the planning district (expressed in thousands) for the fifth planning horizon year to yield the expected intensive care patient days.

2. Determine the projected number of intensive care beds that may be needed in the planning district for the planning horizon year as follows:

a. Divide the number of days projected in subdivision F 1 d of this subsection by 365 to yield the projected average daily census;

b. Calculate the beds needed to assure with 99% probability that an intensive care bed will be available for unscheduled admissions.

3. Determine the projected number of intensive care beds that may be established or relocated within the planning district for the fifth planning horizon year as follows:

a. Determine the number of intensive care beds as reported in the inventory;

b. Subtract the number of beds identified in subdivision F 3 a of this subsection from the number of beds needed as determined in subdivision F 2 b of this subsection. If the difference is positive, then a need may exist for

additional intensive care beds. If the difference is negative, then no need for additional beds exists.

G. No hospital should relocate beds to a new location if underutilized beds (less than 85% average annual occupancy for medical/surgical and pediatric beds), when the relocation involves such beds, and less than 65% average annual occupancy for intensive care beds when relocation involves such beds, are available within 30 minutes of the site of the proposed hospital.

**Part VII
Nursing Facilities**

12VAC5-230-460. Accessibility Expansion of service.

A. Nursing facility beds should be accessible within 60 minutes driving time one way, under normal conditions, to 95% of the population in a planning region.

B. Nursing facilities should be accessible by public transportation when such systems exist in an area.

C. Preference will be given to proposals that improve geographic access and reduce travel time to nursing facilities within a planning district

Proposals to [increase expand] open heart surgery services shall demonstrate that existing open heart surgery rooms operated by the applicant have performed an average of:

1. 400 adult equivalent open heart surgery procedures in the relevant reporting period [of if] the proposed increase is within one hour driving time one way under normal conditions of an existing open heart surgery service, or

2. 300 adult equivalent open heart surgery procedures in the relevant reporting period if the proposed service is in excess of one hour driving time one way under normal conditions of an existing open heart surgery service in the [health] planning district.

12VAC5-230-470. Availability Pediatric open heart surgery services.

A. No planning district shall be considered to have a need for additional nursing facility beds unless (i) the bed need forecast in that planning district (see subsection D of this section) exceeds the current inventory of beds in that planning district and (ii) the estimated average annual occupancy of all existing Medicaid-certified nursing facility beds in the planning district was at least 93% for the most recent two years following the first year of operation of new beds, excluding the bed inventory and utilization of the Virginia Veterans Care Center.

B. No planning district shall be considered to have a need for additional beds if there are unconstruced beds designated as Medicaid-certified.

Regulations

C. Proposals for expanding existing nursing facilities should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the most recent year for which bed utilization has been reported to the department.

Exceptions will be considered for facilities that operated at less than 93% average annual occupancy in the most recent year for which bed utilization has been reported when the facility has a rehabilitative or other specialized care focus that results in a relatively short average length of stay, causing an average annual occupancy lower than 93% for the facility.

D. The bed need forecast will be computed as follows:

$PDBN = (UR64 \times PP64) + (UR69 \times PP69) + (UR74 \times PP74) + (UR79 \times PP79) + (UR84 \times PP84) + (UR85 \times PP85)$ where:

PDBN = Planning district bed need.

UR64 = The nursing home bed use rate of the population aged 0 to 64 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP64 = The population aged 0 to 64 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR69 = The nursing home bed use rate of the population aged 65 to 69 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP69 = The population aged 65 to 69 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR74 = The nursing home bed use rate of the population aged 70 to 74 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP74 = The population aged 70 to 74 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR79 = The nursing home bed use rate of the population aged 75 to 79 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP79 = The population aged 75 to 79 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR84 = The nursing home bed use rate of the population aged 80 to 84 in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP84 = The population aged 80 to 84 projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

UR85+ = The nursing home bed use rate of the population aged 85 and older in the planning district as determined in the most recent nursing home patient origin study authorized by the department.

PP85+ = The population aged 85 and older projected for the planning district three years from the current year as most recently published by the Virginia Employment Commission.

Planning district bed need forecasts will be rounded as follows:

<u>Planning District Bed Need</u>	<u>Rounded Bed Need</u>
<u>1-29</u>	<u>0</u>
<u>30-44</u>	<u>30</u>
<u>45-84</u>	<u>60</u>
<u>85-104</u>	<u>90</u>
<u>105-134</u>	<u>120</u>
<u>135-164</u>	<u>150</u>
<u>165-194</u>	<u>180</u>
<u>195-224</u>	<u>210</u>
<u>225+</u>	<u>240</u>

The above applies, except in the case of a planning district that has two or more nursing facilities, has had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to the department, and has a forecasted bed need of 15 to 29 beds. In such a case, the bed need for this planning district will be rounded to 30.

E. No new freestanding nursing facilities of less than 90 beds should be authorized. Consideration will be given to new freestanding facilities with fewer than 90 nursing facility beds when such facilities can be justified on the basis of a lack of local demand for a larger facility and a maldistribution of nursing facility beds within a planning district.

F. Proposals for the development of new nursing facilities or the expansion of existing facilities by continuing care retirement communities will be considered when:

Part VIII
Lithotripsy Services

12VAC5-230-480. Accessibility Staffing.

A. The waiting time for lithotripsy services should be no more than one week. Open heart surgery services should have a medical director who is board certified in cardiovascular or cardiothoracic surgery by the appropriate board of the American Board of Medical Specialists.

In the case of pediatric cardiac surgery, the medical director should be board certified in cardiovascular or cardiothoracic surgery, with special qualifications and experience in pediatric cardiac surgery and congenital heart disease, by the appropriate board of the American Board of Medical Specialists.

B. Lithotripsy services should be available within 30 minutes driving time in urban areas and 45 minutes driving time one way, under normal conditions, for 95% of the population of the health planning region. Cardiac surgery should be under the direct supervision of one or more qualified physicians.

Pediatric cardiac surgery services should be under the direct supervision of one or more qualified physicians.

Part V
General Surgical Services

12VAC5-230-490. Availability Travel time.

A. Consideration will be given to new lithotripsy services established at a general hospital through contract with, or by lease of equipment from, an existing service provider authorized to operate in Virginia, provided the hospital has referred at least two patients per week, or 100 patients annually, for the relevant reporting period to other facilities for lithotripsy services.

B. A new service may be approved at the site of any general hospital or hospital-based clinic or licensed outpatient surgical hospital provided the service is provided by:

1. A vendor currently providing services in Virginia;
2. A vendor not currently providing services who can demonstrate that the proposed unit can provide at least 750 procedures annually at all sites served; or
3. An applicant who can demonstrate that the proposed unit can provide at least 750 procedures annually at all sites to be served.

C. Proposals for the expansion of services by existing vendors or providers of such services may be approved if it can be demonstrated that each existing unit owned or operated by that vendor or provider has provided a minimum of 750 procedures annually at all sites served by the vendor or provider.

1. The total number of new or additional beds plus any existing nursing facility beds operated by the continuing care provider does not exceed 10% of the continuing care provider's total existing or planned independent living and adult care residence;

2. The proposed beds are necessary to meet existing or reasonably anticipated obligations to provide care to present or prospective residents of the continuing care facility;

3. The applicant agrees in writing not to seek certification for the use of such new or additional beds by persons eligible to receive Medicaid;

4. The applicant agrees in writing to obtain the resident's written acknowledgement, prior to admission, that the applicant does not serve Medicaid recipients and that, in the event such resident becomes a Medicaid recipient and is eligible for nursing facility placement, the resident will not be eligible for placement in the CCRC's nursing facility unit;

5. The applicant agrees in writing that only continuing care contract holders who have resided in the CCRC as independent living residents or adult care residents will be admitted to the nursing facility unit after the first three years of operation.

G. The construction cost of proposed nursing facilities should be comparable to the most recent cost for similar facilities in the same health planning region. Consideration should be given to the current capital cost reimbursement methodology utilized by the Department of Medical Assistance Services.

H. Consideration should be given to applicants proposing to replace outdated and functionally obsolete facilities with modern nursing facilities that will result in the more cost efficient delivery of health care services to residents in a more aesthetically pleasing and comfortable environment. Proponents of the replacement and relocation of nursing facility beds should demonstrate that the replacement and relocation are reasonable and could result in savings in other cost centers, such as realized operational economies of scale and lower maintenance costs.

No new [or expanded] pediatric open heart surgery service should be approved unless the proposed new [or expanded] service is provided at an inpatient hospital that:

1. Has pediatric cardiac catheterization services that have been in operation for 30 months and have performed an average of 200 pediatric cardiac catheterization procedures for the relevant reporting period; and
2. Has pediatric intensive care services and provides specialty or subspecialty neonatal special care.

Regulations

~~D. A new or expanded lithotripsy service may be approved when the applicant is a consortium of hospitals or a hospital network, when a majority of procedures will be provided at sites or facilities owned or operated by the hospital consortium or by the hospital network.~~

~~Surgical services should be available within 30 minutes driving time one way under normal conditions for 95% of the population of the [health] planning district [using mapping software as determined by the commissioner].~~

Part IX

Organ Transplant

12VAC5-230-500. ~~Accessibility~~ Need for new service.

~~A. Organ transplantation services should be accessible within two hours driving time one way, under normal conditions, of 95% of Virginia's population. The combined number of inpatient and outpatient general purpose surgical operating rooms needed in a [health] planning district, exclusive of [procedure rooms,] dedicated cesarean section rooms, operating rooms designated exclusively for cardiac surgery, procedures rooms or VDH-designated trauma services, shall be determined as follows:~~

$$\text{FOR} = \frac{((\text{ORV}/\text{POP}) \times (\text{PROPOP})) \times \text{AHORV}}{1600}$$

1600

Where:

~~ORV = the sum of total inpatient and outpatient general purpose operating room visits in the [health] planning district in the most recent [~~three~~ five] years for which general purpose operating room utilization data has been reported by VHI; and~~

~~POP = the sum of total population in the [health] planning district as reported by a demographic entity as determined by the commissioner, for the same [~~three year~~ five-year] period as used in determining ORV.~~

~~PROPOP = the projected population of the [health] planning district five years from the current year as reported by a demographic program as determined by the commissioner.~~

~~AHORV = the average hours per general purpose operating room visit in the [health] planning district for the most recent year for which average hours per general purpose operating room visits have been calculated as reported by VHI.~~

~~FOR = future general purpose operating rooms needed in the [health] planning district five years from the current year.~~

~~1600 = available service hours per operating room per year based on 80% utilization of an operating room available 40 hours per week, 50 weeks per year.~~

~~B. Providers of organ transplantation services should facilitate access to pre- and post-transplantation services needed by patients residing in rural locations by establishing part time satellite clinics. Projects involving the relocation of existing [~~general purpose~~] operating rooms within a [health] planning district may be authorized when it can be reasonably documented that such relocation will [: (i)] improve the distribution of surgical services within a [health] planning district by making services available within 30 minutes driving time one way under normal conditions of 95% of the planning district's population; (ii) result in the provision of the same surgical services at a lower cost to surgical patients in the health planning district; or (iii) optimize the number of operations in the health planning district that are performed on an outpatient basis].~~

12VAC5-230-510. ~~Availability~~ Staffing.

~~A. There should be no more than one program for each transplantable organ in a health planning region.~~

~~B. Proposals to expand existing transplantation programs shall demonstrate that existing organ transplantation services comply with all applicable Medicare program coverage criteria. Surgical services should be under the direction or supervision of one or more qualified physicians.~~

Part VI

Inpatient Bed Requirements

12VAC5-230-520. ~~Minimum utilization; minimum survival rate; service proficiency; systems operations~~ Travel time.

~~A. Proposals to establish or expand organ transplantation services should demonstrate that the minimum number of transplants would be performed annually. The minimum number of transplants required by organ system is:~~

Kidney	30
Pancreas or kidney/pancreas	12
Heart	17
Heart/Lung	12
Lung	12
Liver	21
Intestine	2

~~Performance of minimum transplantation volumes does not indicate a need for additional transplantation capacity or programs.~~

~~B. Preference will be given to expansion of successful existing services, either by enabling necessary increases in the number of organ systems being transplanted or by adding transplantation capability for additional organ systems, rather~~

~~than developing additional programs that could reduce average program volume.~~

~~C. Facilities should demonstrate that they will achieve and maintain minimum transplant patient survival rates. Minimum one-year survival rates, listed by organ system, are:~~

Kidney	95%
Pancreas or kidney/pancreas	90%
Heart	85%
Heart/Lung	60%
Lung	77%
Liver	86%
Intestine	77%

~~D. Proposals to add additional organ transplantation services should demonstrate at least two years successful experience with all existing organ transplantation systems.~~

~~E. All physicians that perform transplants should be board-certified by the appropriate professional examining board, and should have a minimum of one year of formal training and two years of experience in transplant surgery and post-operative care.~~

Inpatient beds should be within 30 minutes driving time one way under normal conditions of 95% of the population of a [health] planning district [using a mapping software as determined by the commissioner].

Part X

Miscellaneous Capital Expenditures

12VAC5-230-530. Purpose Need for new service.

~~This part of the SMFP is intended to provide general guidance in the review of projects that require COPN authorization by virtue of their expense but do not involve changes in the bed or service capacity of a medical care facility addressed elsewhere in this chapter. This part may be used in coordination with other parts of the SMFP addressing changes in bed or service capacity used in the COPN review process.~~

A. No new inpatient beds should be approved in any [health] planning district unless:

1. The resulting number of beds for each bed category contained in this article does not exceed the number of beds projected to be needed for that [health] planning district for the fifth planning horizon year; and
2. The average annual occupancy based on the number of beds in the [health] planning district for the relevant reporting period is:

a. 80% at midnight census for medical/surgical or pediatric beds;

b. 65% at midnight census for intensive care beds.

B. For proposals to convert under-utilized beds that require a capital expenditure of \$15 million or more, consideration may be given to such proposal if:

1. There is a projected need in the applicable category of inpatient beds; and
2. The applicant can demonstrate that the average annual occupancy of the converted beds would meet the utilization standard for the applicable bed category by the first year of operation.

For the purposes of this part, "underutilized" means less than 80% average annual occupancy for medical/surgical or pediatric beds, when the relocation involves such beds and less than 65% average annual occupancy for intensive care beds when relocation involves such beds.

12VAC5-230-540. Project need Need for medical/surgical beds.

~~All applications involving the expenditure of \$5 million dollars or more by a medical care facility should include documentation that the expenditure is necessary in order for the facility to meet the identified medical care needs of the public it serves. Such documentation should clearly identify that the expenditure:~~

1. Represents the most cost effective approach to meeting the identified need; and
2. The ongoing operational costs will not result in unreasonable increases in the cost of delivering the services provided.

The number of medical/surgical beds projected to be needed in a [health] planning district shall be computed as follows:

1. Determine the use rate for the medical/surgical beds for the [health] planning district using the formula:

$$BUR = (IPD/PoP) \times 1,000$$

Where:

BUR = the bed use rate for the [health] planning district.

IPD = the sum of total inpatient days in the [health] planning district for the most recent [~~three~~ five] years for which inpatient day data has been reported by VHI; and

PoP = the sum of total population [~~greater than~~] 18 years of age [and older] in the [health] planning district for the same [~~three~~ five] years used to determine IPD as reported by a demographic program as determined by the commissioner.

Regulations

2. Determine the total number of medical/surgical beds needed for the [health] planning district in five years from the current year using the formula:

$$\text{ProBed} = ((\text{BUR} \times \text{ProPop})/365)/0.80$$

Where:

ProBed = The projected number of medical/surgical beds needed in the [health] planning district for five years from the current year.

BUR = the bed use rate for the [health] planning district determined in subdivision 1 of this section.

ProPop = the projected population [~~greater than~~] 18 years of age [and older] of the [health] planning district five years from the current year as reported by a demographic program as determined by the commissioner.

3. Determine the number of medical/surgical beds that are needed in the [health] planning district for the five planning horizon years as follows:

$$\text{NewBed} = \text{ProBed} - \text{CurrentBed}$$

Where:

NewBed = the number of new medical/surgical beds that can be established in a [health] planning district, if the number is positive. If NewBed is a negative number, no additional medical/surgical beds should be authorized for the [health] planning district.

ProBed = the projected number of medical/surgical beds needed in the [health] planning district for five years from the current year determined in subdivision 2 of this section.

CurrentBed = the current inventory of licensed and authorized medical/surgical beds in the [health] planning district.

12VAC5-230-550. Facilities expansion Need for pediatric beds.

Applications for the expansion of medical care facilities should document that the current space provided in the facility for the areas or departments proposed for expansion are inadequate. Such documentation should include:

1. An analysis of the historical volume of work activity or other activity performed in the area or department;

2. The projected volume of work activity or other activity to be performed in the area or department; and

3. Evidence that contemporary design guidelines for space in the relevant areas or departments, based on levels of work activity or other activity, are consistent with the proposal.

The number of pediatric beds projected to be needed in a [health] planning district shall be computed as follows:

1. Determine the use rate for pediatric beds for the [health] planning district using the formula:

$$\text{PBUR} = (\text{PIPD}/\text{PedPop}) \times 1,000$$

Where:

PBUR = The pediatric bed use rate for the [health] planning district.

PIPD = The sum of total pediatric inpatient days in the [health] planning district for the most recent [~~three~~ five] years for which inpatient days data has been reported by VHI; and

PedPop = The sum of population under [~~19~~ 18] years of age in the [health] planning district for the same [~~three~~ five] years used to determine PIPD as reported by a demographic program as determined by the commissioner.

2. Determine the total number of pediatric beds needed to the [health] planning district in five years from the current year using the formula:

$$\text{ProPedBed} = ((\text{PBUR} \times \text{ProPedPop})/365)/0.80$$

Where:

ProPedBed = The projected number of pediatric beds needed in the [health] planning district for five years from the current year.

PBUR = The pediatric bed use rate for the [health] planning district determined in subdivision 1 of this section.

ProPedPop = The projected population under [~~19~~ 18] years of age of the [health] planning district five years from the current year as reported by a demographic program as determined by the commissioner.

3. Determine the number of pediatric beds needed within the [health] planning district for the fifth planning horizon year as follows:

$$\text{NewPedBed} = \text{ProPedBed} - \text{CurrentPedBed}$$

Where:

NewPedBed = the number of new pediatric beds that can be established in a [health] planning district, if the number is positive. If NewPedBed is a negative number, no additional pediatric beds should be authorized for the [health] planning district.

ProPedBed = the projected number of pediatric beds needed in the [health] planning district for five years from the current year determined in subdivision 2 of this section.

CurrentPedBed = the current inventory of licensed and authorized pediatric beds in the [health] planning district.

12VAC5-230-560. Renovation or modernization Need for intensive care beds.

A. Applications for the renovation or modernization of medical care facilities should provide documentation that:

1. The timing of the renovation or modernization expenditure is appropriate within the life cycle of the affected building or buildings; and
2. The benefits of the proposed renovation or modernization will exceed the costs of the renovation or modernization over the life cycle of the affected building or buildings to be renovated or modernized.

B. Such documentation should include a history of the affected building or buildings, including a chronology of major renovation and modernization expenses.

C. Applications for the general renovation or modernization of medical care facilities should include downsizing of beds or other service capacity when such capacity has not operated at a reasonable level of efficiency as identified in the relevant sections of this chapter during the most recent three year period.

The projected need for intensive care beds in a [health] planning district shall be computed as follows:

1. Determine the use rate for ICU beds for the [health] planning district using the formula:

$$ICUBUR = (ICUPD/Pop) \times 1,000$$

Where:

ICUBUR = The ICU bed use rate for the [health] planning district.

ICUPD = The sum of total ICU inpatient days in the [health] planning district for the most recent [three five] years for which inpatient day data has been reported by VHI; and

Pop = The sum of population [greater than] 18 years of age [or older for adults or under 18 for pediatric patients] in the [health] planning district for the same [three-five] years used to determine ICUPD as reported by a demographic program as determined by the commissioner.

2. Determine the total number of ICU beds needed for the [health] planning district, including bed availability for unscheduled admissions, five years from the current year using the formula:

$$ProICUBed = ((ICUBUR \times ProPop)/365)/0.65$$

Where:

ProICUBed = The projected number of ICU beds needed in the [health] planning district for five years from the current year;

ICUBUR = The ICU bed use rate for the [health] planning district as determine in subdivision 1 of this section;

ProPop = The projected population [greater than] 18 years of age [or older for adults or under 18 for pediatric patients] of the [health] planning district five years from the current year as reported by a demographic program as determined by the commissioner.

3. Determine the number of ICU beds that may be established or relocated within the [health] planning district for the fifth planning horizon planning year as follows:

$$NewICUB = ProICUBed - CurrentICUBed$$

Where:

NewICUBed = The number of new ICU beds that can be established in a [health] planning district, if the number is positive. If NewICUBed is a negative number, no additional ICU beds should be authorized for the [health] planning district.

ProICUBed = The projected number of ICU beds needed in the [health] planning district for five years from the current year as determined in subdivision 2 of this section.

CurrentICUBed = The current inventory of licensed and authorized ICU beds in the [health] planning district.

12VAC5-230-570. Equipment Expansion or relocation of services.

Applications for the purchase and installation of equipment by medical care facilities that are not addressed elsewhere in this chapter should document that the equipment is needed. Such documentation should clearly indicate that the (i) proposed equipment is needed to maintain the current level of service provided, or (ii) benefits of the change in service resulting from the new equipment exceed the costs of purchasing or leasing and operating the equipment over its useful life.

A. Proposals to relocate beds to a location not contiguous to the existing site should be approved only when:

1. Off-site replacement is necessary to correct life safety or building code deficiencies;
2. The population currently served by the beds to be moved will have reasonable access to the beds at the new site, or to neighboring inpatient facilities;
3. The number of beds to be moved off-site is taken out of service at the existing facility;

Regulations

4. The off-site replacement of beds results in:

- a. A decrease in the licensed bed capacity;
- b. A substantial cost savings, cost avoidance, or consolidation of underutilized facilities; or
- c. Generally improved operating efficiency in the applicant's facility or facilities; and

5. The relocation results in improved distribution of existing resources to meet community needs.

B. Proposals to relocate beds within a [health] planning district where underutilized beds are within 30 minutes driving time one way under normal conditions of the site of the proposed relocation should be approved only when the applicant can demonstrate that the proposed relocation will not materially harm existing providers.

Part XI Medical Rehabilitation

12VAC5-230-580. Accessibility Long-term acute care hospitals (LTACHs).

~~Comprehensive inpatient rehabilitation services should be available within 60 minutes driving time one way, under normal conditions, of 95% of the population of the planning region.~~

A. LTACHs will not be considered as a separate category for planning or licensing purposes. All LTACH beds remain part of the inventory of inpatient hospital beds.

B. A LTACH shall only be approved if an existing hospital converts existing medical/surgical beds to LTACH beds or if there is an identified need for LTACH beds within a [health] planning district. New LTACH beds that would result in an increase in total licensed beds above 165% of the average daily census for the [health] planning district will not be approved. Excess inpatient beds within an applicant's existing acute care facilities must be converted to fill any unmet need for additional LTACH beds.

C. If an existing or host hospital converts existing beds for use as LTACH beds, those beds must be delicensed from the bed inventory of the existing hospital. If the LTACH ceases to exist, terminates its services, or does not offer services for a period of 12 months within its first year of operation, the beds delicensed by the host hospital to establish the LTACH shall revert back to that host hospital.

If the LTACH ceases operation in subsequent years of operation, the host hospital may reacquire the LTACH beds by obtaining a COPN, provided the beds are to be used exclusively for their original intended purpose and the application meets all other applicable project delivery requirements. Such an application shall not be subject to the standard batch review cycle and shall be processed as allowed under Part VI (12VAC5-220-280 et seq.) of the Virginia

Medical Care Facilities Certificate of Public Need Rules and Regulations.

D. The application shall delineate the service area for the LTACH by documenting the expected areas from which it is expected to draw patients.

E. A LTACH shall be established for 10 or more beds.

F. A LTACH shall become certified by the Centers for Medicare and Medicaid Services (CMS) as a long-term acute care hospital and shall not convert to a hospital for patients needing a length of stay of less than 25 days without obtaining a certificate of public need.

1. If the LTACH fails to meet the CMS requirements as a LTACH within 12 months after beginning operation, it may apply for a six-month extension of its COPN.

2. If the LTACH fails to meet the CMS requirements as a LTACH within the extension period, then the COPN granted pursuant to this section shall expire automatically.

12VAC5-230-590. Availability Staffing.

~~A. The number of comprehensive and specialized rehabilitation beds needed in a health planning region will be projected as follows:~~

$$\frac{((UR \times PROJ. POP.) / 365) / 90}$$

~~Where UR = the use rate expressed as rehabilitation patient days per population in the health planning region as reported in the most recent "Industry Report for Virginia Hospitals and Nursing Facilities" published by Virginia Health Information; and~~

~~PROJ. POP. = the most recent projected population of the health planning region three years from the current year as published by the Virginia Employment Commission.~~

~~B. No additional rehabilitation beds should be authorized for a health planning region in which existing rehabilitation beds were utilized at an average annual occupancy of less than 90% in the most recently reported year.~~

~~Preference will be given to the development of needed rehabilitation beds through the conversion of underutilized medical/surgical beds.~~

~~C. Notwithstanding subsection A of this section, the need for proposed inpatient rehabilitation beds will be given consideration when:~~

~~1. The rehabilitation specialty proposed is not currently offered in the health planning region; and~~

~~2. A documented basis for recognizing a need for the service or beds is provided by the applicant.~~

~~Inpatient services should be under the direction or supervision of one or more qualified physicians.~~

Part VII
Nursing Facilities

12VAC5-230-600. Staffing Travel time.

~~Medical rehabilitation facilities should have full time medical direction by a psychiatrist or other physician with a minimum of two years experience in the proposed specialized inpatient medical rehabilitation program.~~

~~A. Nursing facility beds should be accessible within 30 minutes driving time one way under normal conditions to 95% of the population in a [health] planning district [using mapping software as determined by the commissioner].~~

~~B. Nursing facilities should be accessible by public transportation when such systems exist in an area.~~

~~C. [Consideration will Preference may] be given to proposals that improve geographic access and reduce travel time to nursing facilities within a [health] planning district.~~

Part XII
Mental Health Services

Article 1

Psychiatric and Substance Abuse Disorder Treatment Services

12VAC5-230-610. Accessibility Need for new service.

~~A. Acute psychiatric, acute substance abuse disorder treatment services, and intermediate care substance abuse disorder treatment services should be available within 60 minutes driving time one way, under normal conditions, of 95% of the population.~~

~~B. Existing and proposed acute psychiatric, acute substance abuse disorder treatment, and intermediate care substance abuse disorder treatment service providers shall have established plans for the provision of services to indigent patients which include, at a minimum: (i) the minimum number of unreimbursed patient days to be provided to indigent patients who are not Medicaid recipients; (ii) the minimum number of Medicaid reimbursed patient days to be provided, unless the existing or proposed facility is ineligible for Medicaid participation; (iii) the minimum number of unreimbursed patient days to be provided to local community services boards; and (iv) a description of the methods to be utilized in implementing the indigent patient service plan and assuring the provision of the projected levels of unreimbursed and Medicaid reimbursed patient days.~~

~~C. Proposed acute psychiatric, acute substance abuse disorder treatment, and intermediate care substance abuse disorder treatment service providers shall have formal agreements with their identified community services boards that: (i) specify the number of charity care patient days that will be provided to the community service board; (ii) describe the mechanisms to monitor compliance with charity care~~

~~provisions; (iii) provide for effective discharge planning for all patients, including return to the patients place of origin or home state if not Virginia; and (iv) consider admission priorities based on relative medical necessity.~~

~~D. Providers of acute psychiatric, acute substance abuse disorder treatment, and intermediate care substance abuse disorder treatment services serving large geographic areas should establish satellite outpatient facilities to improve patient access, where appropriate and feasible.~~

~~A. A [health] planning district should be considered to have a need for additional nursing facility beds when:~~

~~1. The bed need forecast exceeds the current inventory of beds for the [health] planning district; and~~

~~2. The average annual occupancy of all existing and authorized Medicaid-certified nursing facility beds in the [health] planning district was at least 93%, excluding the bed inventory and utilization of the Virginia Veterans Care Centers.~~

~~Exception: When there are facilities that have been in operation less than three years in the [health] planning district, their occupancy can be excluded from the calculation of average occupancy if the facilities [has had] an annual occupancy of at least 93% in one of its first three years of operation.~~

~~B. No [health] planning district should be considered in need of additional beds if there are unconstructed beds designated as Medicaid-certified. This presumption of 'no need' for additional beds extends for three years [or the date on the certificate, whichever is longer, for the unconstructed beds from the issuance date of the certificate].~~

~~C. The bed need forecast will be computed as follows:~~

$$\text{PDBN} = (\text{UR64} \times \text{PP64}) + (\text{UR69} \times \text{PP69}) + (\text{UR74} \times \text{PP74}) + (\text{UR79} \times \text{PP79}) + (\text{UR84} \times \text{PP84}) + (\text{UR85} \times \text{PP85})$$

~~Where:~~

~~PDBN = Planning district bed need.~~

~~UR64 = The nursing home bed use rate of the population aged 0 to 64 in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.~~

~~PP64 = The population aged 0 to 64 projected for the [health] planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.~~

~~UR69 = The nursing home bed use rate of the population aged 65 to 69 in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.~~

Regulations

PP69 = The population aged 65 to 69 projected for the [health] planning district three years from the current year as most recently published by the a demographic program as determined by the commissioner.

UR74 = The nursing home bed use rate of the population aged 70 to 74 in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP74 = The population aged 70 to 74 projected for the [health] planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR79 = The nursing home bed use rate of the population aged 75 to 79 in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP79 = The population aged 75 to 79 projected for the [health] planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR84 = The nursing home bed use rate of the population aged 80 to 84 in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP84 = The population aged 80 to 84 projected for the [health] planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

UR85+ = The nursing home bed use rate of the population aged 85 and older in the [health] planning district as determined in the most recent nursing home patient origin study authorized by VHI.

PP85+ = The population aged 85 and older projected for the [health] planning district three years from the current year as most recently published by a demographic program as determined by the commissioner.

[Planning Health planning] district bed need forecasts will be rounded as follows:

[Planning Health Planning]

District Bed Need	Rounded Bed Need
1-29	0
30-44	30
45-84	60
85-104	90
105-134	120
135-164	150
165-194	180
195-224	210
225+	240

Exception: When a [health] planning district has:

1. Two or more nursing facilities;
2. Had an average annual occupancy rate in excess of 93% for the most recent two years for which bed utilization has been reported to VHI; and
3. Has a forecasted bed need of 15 to 29 beds, then the bed need for this [health] planning district will be rounded to 30.

D. No new freestanding nursing facilities of less than 90 beds should be authorized. However, consideration may be given to a new freestanding facility with fewer than 90 nursing facility beds when the applicant can demonstrate that such a facility is justified based on a locality's preference for such smaller facility and there is a documented poor distribution of nursing facility beds within the [health] planning district.

E. When evaluating the [capital] cost of a project, consideration may be given to projects that use the current methodology as determined by the Department of Medical Assistance Services.

E. [~~Consideration~~ Preference] may be given to [~~proposals to projects that~~] replace outdated and functionally obsolete facilities with modern facilities that result in the more cost-efficient resident services in a more aesthetically pleasing and comfortable environment.

12VAC5-230-620. Availability Expansion of services.

A. ~~The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both will be determined as follows:~~

$$\underline{((UR \times PROJ.POP.)/365)/.75}$$

Where UR = ~~the use rate of the planning district expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five year period; and~~

PROJ.POP. = ~~the projected population of the planning district five years from the current year as reported in the most recent published projections of the Virginia Employment Commission.~~

For purposes of this methodology, no beds shall be included in the inventory of psychiatric or substance abuse disorder beds when these beds (i) are in facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) have been converted to other uses; (iii) have been vacant for six months or more; or (iv) are not currently staffed and cannot be staffed for acute

~~psychiatric or substance abuse disorder patient admissions within 24 hours.~~

~~B. Subject to the provisions of 12VAC5-230-80, no additional acute psychiatric or acute substance abuse disorder treatment beds should be authorized for a planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both if the existing inventory of such beds is greater than the need identified using the above methodology.~~

~~However, consideration will be given to the addition of acute psychiatric or acute substance abuse disorder beds by existing medical care facilities in planning districts with an excess supply of beds when such additions can be justified on the basis of facility specific utilization or geographic remoteness, i.e., driving time of 60 minutes or more, one way under normal conditions, to alternate acute care facilities. If the facility with the institutional need for beds is part of a hospital network, underutilized beds at the other facilities within the network should be relocated to the facility with the institutional need if possible.~~

~~C. No existing acute psychiatric or acute substance disorder abuse treatment beds should be relocated unless it can be reasonably projected that the relocation will not have a negative impact on the ability of existing acute psychiatric or substance abuse disorder treatment providers or both to continue to provide historic levels of service to Medicaid or other indigent patients.~~

~~D. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a planning district without existing acute psychiatric or acute substance abuse disorder treatment beds will be determined as follows:~~

~~$$\frac{(UR \times PROJ.POP.)}{365} \div 80$$~~

~~Where UR = the use rate of the health planning region in which the planning district is located expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period;~~

~~PROJ.POP. = the projected population of the planning district five years from the current year as reported in the most recent published projections of the Virginia Employment Commission.~~

~~E. Preference will be given to the development of needed acute psychiatric and intermediate substance abuse disorder treatment beds through the conversion of unused general hospital beds. Preference will also be given to proposals for acute psychiatric and substance abuse beds demonstrating a willingness to accept persons under temporary detention orders (TDO) and to have contractual agreements to serve populations served by Community Services Boards, whether through conversion of underutilized general hospital beds or development of new beds.~~

~~F. The number of intermediate care substance abuse disorder treatment beds needed in a planning district with existing intermediate care substance abuse disorder treatment beds will be determined as follows:~~

~~$$\frac{(UR \times PROJ.POP.)}{365} \div 75$$~~

~~Where UR = the use rate of the planning district expressed as the average intermediate care substance abuse disorder treatment patient days per population reported for the most recent three-year period; and~~

~~PROJ.POP. = the projected population of the planning district three years from the current year as reported in the most recent published projections of the Virginia Employment Commission.~~

~~G. Subject to the provisions of 12VAC5-230-80, no additional intermediate care substance abuse disorder treatment beds should be authorized for a planning district with existing intermediate care substance abuse disorder treatment beds if the existing inventory of such beds is greater than the need identified. No beds in facilities operated by DMHMRSAS will be included in the inventory of intermediate care substance abuse disorder beds.~~

~~However, consideration will be given to the addition of intermediate care substance abuse disorder treatment beds by existing medical care facilities in planning districts with an excess supply of beds when such addition can be justified on the basis of facility specific utilization or geographic remoteness, i.e., driving time of 60 minutes or more one way under normal conditions, to alternate acute care facilities. If the facility with the institutional need for beds is part of a hospital network, underutilized beds at the other facilities within the network should be relocated to the facility with the institutional need if possible.~~

~~H. No existing intermediate care substance abuse disorder treatment beds should be relocated from one site to another unless it can be reasonably projected that the relocation will not have a negative impact on the ability of existing intermediate care substance abuse disorder treatment providers to continue to provide historic levels of service to indigent patients.~~

~~I. The number of intermediate care substance abuse disorder treatment beds needed in a planning district without existing intermediate care substance abuse disorder treatment beds will be determined as follows:~~

~~$$\frac{(UR \times PROJ.POP.)}{365} \div 75$$~~

~~Where UR = the use rate of the health planning region in which the planning district is located expressed as the average intermediate care substance abuse disorder treatment patient days per population reported for the most recent three-year period;~~

Regulations

~~PROJ.POP. = the projected population of the planning district three years from the current year as reported in the most recent published projections of the Virginia Employment Commission.~~

~~J. Preference will be given to the development of needed intermediate care substance abuse disorder treatment beds through the conversion of underutilized general hospital beds.~~

~~Proposals to increase existing nursing facility bed capacity should not be approved unless the facility has operated for at least two years and the average annual occupancy of the facility's existing beds was at least 93% in the relevant reporting period as reported to VHI.~~

~~Note: Exceptions will be considered for facilities that operated at less than 93% average annual occupancy in the most recent year for which bed utilization has been reported when the facility [has a rehabilitative or other specialized care program causing a short average length of stay resulting in offers short stay services causing] an average annual occupancy lower than 93% for the facility.~~

Article 2 Mental Retardation

12VAC5-230-630. Availability Continuing care retirement communities.

~~The establishment of new ICF/MR facilities should not be authorized unless the following conditions are met:~~

- ~~1. Alternatives to the proposed service are not available in the area to be served by the new facility;~~
- ~~2. There is a documented source of referrals for the proposed new facility;~~
- ~~3. The manner in which the proposed new facility fits into the continuum of care for the mentally retarded is identified;~~
- ~~4. There are distinct and unique geographic, socioeconomic, cultural, transportation, or other factors affecting access to care that require development of a new ICF/MR;~~
- ~~5. Alternatives to the development of a new ICF/MR consistent with the Medicaid waiver program have been considered and can be reasonably discounted in evaluating the need for the new facility.~~
- ~~6. The proposed new facility is consistent with the current DMHMRSAS Comprehensive Plan and the mental retardation service priorities for the catchment area identified in the plan;~~
- ~~7. Ancillary and supportive services needed for the new facility are available; and~~

~~8. Service alternatives for residents of the proposed new facility who are ready for discharge from the ICF/MR setting are available.~~

~~Proposals for the development of new nursing facilities or the expansion of existing facilities by continuing care retirement communities (CCRC) will be considered when:~~

~~[1. The facility is registered with the State Corporation Commission as a continuing care provider pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia;]~~

~~[~~1. 2.~~] The [~~total-~~] number of [~~new or additional beds plus any existing~~] nursing facility beds [~~operated by the continuing care provider does not exceed 20% of the continuing care provider's total existing or planned independent living and adult care residencee requested in the initial application does not exceed the lesser of 20% of the continuing care retirement community's total number of beds that are not nursing home beds or 60 beds~~];~~

~~[~~2. 3.~~] The [~~proposed beds are necessary to meet existing or reasonably anticipated obligations to provide care to present or prospective residents of the continuing care facility~~] number of new nursing facility beds requested in any subsequent application does not cause the continuing care retirement community's total number of nursing home beds to exceed 20% of its total number of beds that are not nursing facility beds]; and~~

~~[3. The applicant certifies that :~~

~~a. The CCRC has, or will have, a qualified resident assistance fund and that the facility will not rely on federal and state public assistance funds for reimbursement of the proposed beds;~~

~~b. The continuing care contract or disclosure statement, as required by § 38.2-4902 of the Code of Virginia, has been filed with the State Corporation Commission and that the commission has deemed the contract or disclosure statement in compliance with applicable law; and~~

~~c. Only continuing care contract holders residing in the CCRC as independent living residents or adult care residents or who is a family member of a contract holder residing in a non nursing facility portion of the CCRC will be admitted to the nursing facility unit after the first three years of operation.~~

~~4. The continuing care retirement community has established a qualified resident assistance policy.]~~

12VAC5-230-640. Continuity; integration Staffing.

~~Each facility should have a written transfer agreement with one or more hospitals for the transfer of emergency cases if such hospitalization becomes necessary. Nursing facilities shall be under the direction or supervision of a licensed~~

nursing home administrator and staffed by licensed and certified nursing personnel qualified as required by law.

Part VIII
Lithotripsy Service

12VAC5-230-650. Acceptability Travel time.

~~Mental retardation facilities should meet all applicable licensure standards as specified in 12VAC35-105, Rules and Regulations of the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services. Lithotripsy services should be available within 30 minutes driving time one way under normal conditions for 95% of the population of the health planning region [using mapping software as determined by the commissioner].~~

Part XIII
Perinatal Services

Article 1
Criteria and Standards for Obstetrical Services

12VAC5-230-660. Accessibility Need for new service.

~~Obstetrical services should be located within 30 minutes driving time one way, under normal conditions, of 95% of the population in rural areas and within 30 minutes driving time one way, under normal conditions, in urban and suburban areas.~~

A. ~~[Consideration Preference] may be given to [a project that establishes] new renal or orthopedic lithotripsy services [established] at a new facility through contract with, or by lease of equipment from, an existing service provider authorized to operate in Virginia, [provided and] the facility has referred at least two appropriate patients per week, or 100 appropriate patients annually, for the relevant reporting period to other facilities for either renal or orthopedic lithotripsy services.~~

B. A new renal lithotripsy service may be approved if the applicant can demonstrate that the proposed service can provide at least 750 renal lithotripsy procedures annually.

C. A new orthopedic lithotripsy service may be approved if the applicant can demonstrate that the proposed service can provide at least 500 orthopedic lithotripsy procedures annually.

12VAC5-230-670. Availability Expansion of services.

~~A. Proposals to establish new obstetrical services in rural areas should demonstrate that obstetrical volumes within the travel times listed in 12VAC5-230-660 will not be negatively affected.~~

~~B. Proposals to establish new obstetrical services in urban and suburban areas should demonstrate that a minimum of 2,500 deliveries will be performed annually by the second year of operation and that obstetrical volumes of existing~~

~~providers located within the travel times listed in 12VAC5-230-660 will not be negatively affected.~~

~~C. Applications to improve existing obstetrical services, and to reduce costs through consolidation of two obstetrical services into a larger, more efficient service will be given preference over the addition of new services or the expansion of single service providers.~~

A. Proposals to [~~increase~~ expand] renal lithotripsy services should demonstrate that each existing unit owned or operated by that vendor or provider has provided at least 750 procedures annually at all sites served by the vendor or provider.

B. Proposals to [~~increase~~ expand] orthopedic lithotripsy services should demonstrate that each existing unit owned or operated by that vendor or provider has provided at least 500 procedures annually at all sites served by the vendor or provider.

12VAC5-230-680. Continuity Adding or expanding mobile lithotripsy services.

~~A. Perinatal service capacity should be developed and sized to provide routine newborn care to infants delivered in the associated obstetrics service, and shall have the capability to stabilize and prepare for transport those infants requiring the care of a neonatal special care services unit.~~

~~B. The application should identify the primary and secondary neonatal special care center nearest the proposed service and provide travel time one way, under normal conditions, to those centers.~~

A. Proposals for mobile lithotripsy services should demonstrate that, for the relevant reporting period, at least 125 procedures were performed and that the proposed mobile unit will not reduce the utilization of existing machines in the [health] planning region.

B. Proposals to convert a mobile lithotripsy service to a fixed site lithotripsy service should demonstrate that, for the relevant reporting period, at least 430 procedures were performed and the proposed conversion will not reduce the utilization of existing providers in the [health] planning district.

Article 2
Neonatal Special Care Services

12VAC5-230-690. Accessibility Staffing.

~~Neonatal special care services should be located within an average of 45 minutes driving time one way, under normal conditions, in urban and suburban areas of hospitals providing general level newborn services. Lithotripsy services should be under the direction or supervision of one or more qualified physicians.~~

Regulations

Part IX Organ Transplant

12VAC5-230-700. Availability Travel time.

A. Existing neonatal special care units located within the travel times listed in 12VAC5-230-660 should achieve 65% average annual occupancy before new services can be added to the planning region. Organ transplantation services should be accessible within two hours driving time one way under normal conditions of 95% of Virginia's population [using mapping software as determined by the commissioner].

B. Preference will be given to the expansion of existing services rather than the creation of new services. Providers of organ transplantation services should facilitate access to pre and post transplantation services needed by patients residing in rural locations by establishing part-time satellite clinics.

12VAC5-230-710. Neonatal services Need for new service.

The application should identify the service area, levels of service, and capacity of the current general level newborn service hospitals to be served within the identified area.

A. There should be no more than one program for each transplantable organ in a health planning region.

B. Performance of minimum transplantation volumes as cited in 12VAC5-230-720 does not indicate a need for additional transplantation capacity or programs.

12VAC5-230-720. Transplant volumes; survival rates; service proficiency; systems operations.

A. Proposals to establish organ transplantation services should demonstrate that the minimum number of transplants would be performed annually. The minimum number transplants of required by organ system is:

<u>Kidney</u>	<u>30</u>
<u>Pancreas or kidney/pancreas</u>	<u>12</u>
<u>Heart</u>	<u>17</u>
<u>Heart/Lung</u>	<u>12</u>
<u>Lung</u>	<u>12</u>
<u>Liver</u>	<u>21</u>
<u>Intestine</u>	<u>2</u>

Note: Any proposed pancreas transplant program must be a part of a kidney transplant program that has achieved a minimum volume standard of 30 cases per year for kidney transplants as well as the minimum transplant survival rates stated in subsection B of this section.

B. Applicants shall demonstrate that they will achieve and maintain at least the minimum transplant patient survival rates. Minimum one-year survival rates listed by organ system are:

<u>Kidney</u>	<u>95%</u>
<u>Pancreas or kidney/pancreas</u>	<u>90%</u>
<u>Heart</u>	<u>85%</u>
<u>Heart/Lung</u>	<u>70%</u>

<u>Lung</u>	<u>77%</u>
<u>Liver</u>	<u>86%</u>
<u>Intestine</u>	<u>77%</u>

12VAC5-230-730. Expansion of transplant services.

A. Proposals to [~~increase~~ expand] organ transplantation services shall demonstrate at least two years successful experience with all existing organ transplantation systems at the hospital.

B. [~~Consideration will~~ Preference may] be given to [~~expanding successful existing services through increases in a project expanding~~] the number of organ systems being transplanted [at a successful existing service] rather than developing new programs that could reduce existing program volumes.

12VAC5-230-740. Staffing.

Organ transplant services should be under the direct supervision of one or more qualified physicians.

Part X Miscellaneous Capital Expenditures

12VAC5-230-750. Purpose.

This part of the SMFP is intended to provide general guidance in the review of projects that require COPN authorization by virtue of their expense but do not involve changes in the bed or service capacity of a medical care facility addressed elsewhere in this chapter. This part may be used in coordination with other service specific parts addressed elsewhere in this chapter.

12VAC5-230-760. Project need.

All applications involving the expenditure of \$15 million or more by a medical care facility should include documentation that the expenditure is necessary in order for the facility to meet the identified medical care needs of the public it serves. Such documentation should clearly identify that the expenditure:

1. Represents the most cost-effective approach to meeting the identified need; and
2. The ongoing operational costs will not result in unreasonable increases in the cost of delivering the services provided.

12VAC5-230-770. Facilities expansion.

Applications for the expansion of medical care facilities should document that the current space provided in the facility for the areas or departments proposed for expansion is inadequate. Such documentation should include:

1. An analysis of the historical volume of work activity or other activity performed in the area or department;

2. The projected volume of work activity or other activity to be performed in the area or department; and

3. Evidence that contemporary design guidelines for space in the relevant areas or departments, based on levels of work activity or other activity, are consistent with the proposal.

12VAC5-230-780. Renovation or modernization.

A. Applications for the renovation or modernization of medical care facilities should provide documentation that:

1. The timing of the renovation or modernization expenditure is appropriate within the life cycle of the affected building or buildings; and

2. The benefits of the proposed renovation or modernization will exceed the costs of the renovation or modernization over the life cycle of the affected building or buildings to be renovated or modernized.

B. Such documentation should include a history of the affected building or buildings, including a chronology of major renovation and modernization expenses.

C. Applications for the general renovation or modernization of medical care facilities should include downsizing of beds or other service capacity when such capacity has not operated at a reasonable level of efficiency as identified in the relevant sections of this chapter during the most recent five-year period.

12VAC5-230-790. Equipment.

Applications for the purchase and installation of equipment by medical care facilities that are not addressed elsewhere in this chapter should document that the equipment is needed. Such documentation should clearly indicate that the (i) proposed equipment is needed to maintain the current level of service provided, or (ii) benefits of the change in service resulting from the new equipment exceed the costs of purchasing or leasing and operating the equipment over its useful life.

Part XI
Medical Rehabilitation

12VAC5-230-800. Travel time.

Medical rehabilitation services should be available within 60 minutes driving time one way under normal conditions of 95% of the population of the [health] planning district [using mapping software as determined by the commissioner].

12VAC5-230-810. Need for new service.

A. The number of comprehensive and specialized rehabilitation beds shall be determined as follows:

$$((UR \times PROPOP)/365) / [.85 \text{ } .80]$$

Where:

UR = the use rate expressed as rehabilitation patient days per population in the [health] planning district as reported by VHI; and

PROPOP = the most recent projected population of the [health] planning district five years from the current year as published by a demographic entity as determined by the commissioner.

B. Proposals for new medical rehabilitation beds should be considered when the applicant can demonstrate that:

1. The rehabilitation specialty proposed is not currently offered in the [health] planning district; and

2. There is a documented need for the service or beds in the [health] planning district.

12VAC5-230-820. Expansion of services.

No additional rehabilitation beds should be authorized for a [health] planning district in which existing rehabilitation beds were utilized with an average annual occupancy of less than [~~85%~~ 80%] in the most recently reported year.

[~~Exception: Consideration~~ Preference] may be given to [~~expanding a project to expand~~] rehabilitation beds [~~through the conversion of~~ by converting] underutilized medical/surgical beds.

12VAC5-230-830. Staffing.

Medical rehabilitation facilities should be under the direction or supervision of one or more qualified physicians.

Part XII
Mental Health Services

Article I
Acute Psychiatric and Acute Substance Abuse Disorder Treatment Services

12VAC5-230-840. Travel time.

Acute psychiatric and acute substance abuse disorder treatment services should be available within 60 minutes driving time one way under normal conditions of 95% of the population [using mapping software as determined by the commissioner].

12VAC5-230-850. Continuity; integration.

A. Existing and proposed acute psychiatric and acute substance abuse disorder treatment providers shall have established plans for the provision of services to indigent patients that include:

1. The minimum number of unreimbursed patient days to be provided to indigent patients who are not Medicaid recipients;

Regulations

2. The minimum number of Medicaid-reimbursed patient days to be provided, unless the existing or proposed facility is ineligible for Medicaid participation;

3. The minimum number of unreimbursed patient days to be provided to local community services boards; and

4. A description of the methods to be utilized in implementing the indigent patient service plan and assuring the provision of the projected levels of unreimbursed and Medicaid-reimbursed patient days.

B. Proposed acute psychiatric and acute substance abuse disorder treatment providers shall have formal agreements with the appropriate local community services boards or behavioral health authority that:

1. Specify the number of patient days that will be provided to the community service board;

2. Describe the mechanisms to monitor compliance with charity care provisions;

3. Provide for effective discharge planning for all patients, including return to the patient's place of origin or home state if not Virginia; and

4. Consider admission priorities based on relative medical necessity.

C. Providers of acute psychiatric and acute substance abuse disorder treatment serving large geographic areas should establish satellite outpatient facilities to improve patient access where appropriate and feasible.

12VAC5-230-860. Need for new service.

A. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a [health] planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both will be determined as follows:

$$\frac{((UR \times PROPOP)/365)}.75$$

Where:

UR = the use rate of the [health] planning district expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period; and

PROPOP = the projected population of the [health] planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

For purposes of this methodology, no beds shall be included in the inventory of psychiatric or substance abuse disorder beds when these beds (i) are in facilities operated by the

Department of Mental Health, Mental Retardation and Substance Abuse Services; (ii) have been converted to other uses; (iii) have been vacant for six months or more; or (iv) are not currently staffed and cannot be staffed for acute psychiatric or substance abuse disorder patient admissions within 24 hours.

B. Subject to the provisions of 12VAC5-230-70, no additional acute psychiatric or acute substance abuse disorder treatment beds should be authorized for a [health] planning district with existing acute psychiatric or acute substance abuse disorder treatment beds or both if the existing inventory of such beds is greater than the need identified using the above methodology.

[~~Consideration~~ Preference] may also be given to the addition of acute psychiatric or acute substance abuse beds dedicated for the treatment of geriatric patients in [health] planning districts with an excess supply of beds when such additions are justified on the basis of the specialized treatment needs of geriatric patients.

C. No existing acute psychiatric or acute substance abuse disorder treatment beds should be relocated unless it can be reasonably projected that the relocation will not have a negative impact on the ability of existing acute psychiatric or substance abuse disorder treatment providers or both to continue to provide historic levels of service to Medicaid or other indigent patients.

D. The combined number of acute psychiatric and acute substance abuse disorder treatment beds needed in a [health] planning district without existing acute psychiatric or acute substance abuse disorder treatment beds will be determined as follows:

$$\frac{((UR \times PROPOP)/365)}.75$$

Where:

UR = the use rate of the health planning region in which the [health] planning district is located expressed as the average acute psychiatric and acute substance abuse disorder treatment patient days per population reported for the most recent five-year period;

PROPOP = the projected population of the [health] planning district five years from the current year as reported in the most recent published projections by a demographic entity as determined by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

E. Preference [~~will~~ may] be given to the development of needed acute psychiatric beds through the conversion of unused general hospital beds. Preference will also be given to proposals for acute psychiatric and substance abuse beds demonstrating a willingness to accept persons under temporary detention orders (TDO) and that have contractual agreements to serve populations served by community

services boards, whether through conversion of underutilized general hospital beds or development of new beds.

Article 2
Mental Retardation

12VAC5-230-870. Need for new service.

The establishment of new ICF/MR facilities with more than 12 beds shall not be authorized unless the following conditions are met:

1. Alternatives to the proposed service are not available in the area to be served by the new facility;
2. There is a documented source of referrals for the proposed new facility;
3. The manner in which the proposed new facility fits into the continuum of care for the mentally retarded is identified;
4. There are distinct and unique geographic, socioeconomic, cultural, transportation, or other factors affecting access to care that require development of a new ICF/MR;
5. Alternatives to the development of a new ICF/MR consistent with the Medicaid waiver program have been considered and can be reasonably discounted in evaluating the need for the new facility;
6. The proposed new facility will have a maximum of 20 beds and is consistent with any plan of the Department of Mental Health, Mental Retardation and Substance Abuse Services and the mental retardation service priorities for the catchment area identified in the plan;
7. Ancillary and supportive services needed for the new facility are available; and
8. Service alternatives for residents of the proposed new facility who are ready for discharge from the ICF/MR setting are available.

12VAC5-230-880. Continuity; integration.

Each facility should have a written transfer agreement with one or more hospitals for the transfer of emergency cases if such hospitalization becomes necessary.

12VAC5-230-890. Compliance with licensure standards.

Mental retardation facilities should meet all applicable licensure standards as specified in 12VAC35-105, Rules and Regulations for the Licensing of Providers of Mental Health, Mental Retardation and Substance Abuse Services.

Part XIII
Perinatal [and Obstetrical] Services

Article 1
Criteria and Standards for Obstetrical Services

12VAC5-230-900. Travel time.

Obstetrical services should be located within 30 minutes driving time one way under normal conditions of 95% of the population of the [health] planning district [using mapping software as determined by the commissioner].

12VAC5-230-910. Need for new service.

[~~A.~~] No new obstetrical services should be approved unless the applicant can demonstrate that, based on the population and utilization of current services, there is a need for such services in the [health] planning district without [significantly] reducing the utilization of existing providers in the [~~planning~~ health planning] district.

[~~B. Applications to improve existing obstetrical services, and to reduce costs through consolidation of two obstetrical services into a larger, more efficient service should be given preference over establishing new services or expanding single service providers.]~~

12VAC5-230-920. Continuity.

A. Perinatal service capacity, including service availability for unscheduled admissions, should be developed to provide routine newborn care to infants delivered in the associated obstetrics service, and shall be able to stabilize and prepare for transport those infants requiring the care of a neonatal special care services unit.

B. The proposal shall identify the primary and secondary neonatal special care center nearest the proposed service shall provide transport one-way to those centers.

12VAC5-230-930. Staffing.

Obstetric services should be under the direction or supervision of one or more qualified physicians.

Article 2
Neonatal Special Care Services

12VAC5-230-940. Travel time.

A. Intermediate level neonatal special care services should be located within 30 minutes driving time one way under normal conditions of hospitals providing general level newborn services [using mapping software as determined by the commissioner].

B. Specialty and subspecialty neonatal special care services should be located within 90 minutes driving time one way under normal conditions of hospitals providing general or intermediate level newborn services [using mapping software as determined by the commissioner].

Regulations

12VAC5-230-950. Need for new service.

[~~A.~~] No new level of neonatal service shall be offered by a hospital unless that hospital has first obtained a COPN granting approval to provide each such level of service.

[~~B. Preference will be given to the expansion of existing services, rather than to the creation of new services.~~]

12VAC5-230-960. Intermediate level newborn services.

A. Existing [~~neonatal special care units providing~~] intermediate level newborn services as designated in 12VAC5-410-443 [~~located within 30 minutes driving time one way under normal conditions~~] should achieve 85% average annual occupancy before new intermediate level newborn services can be added to the [health] planning region.

B. [~~Neonatal special care units providing intermediate~~] level newborn services as designated in 12VAC5-410-443 should contain a minimum of six bassinets [~~stations or beds~~].

C. No more than four bassinets [~~stations and beds~~] for intermediate level newborn services as designated in 12VAC5-410-443 per 1,000 live births should be established in each [health] planning region [~~with a bassinets or station counting as the equivalent of one bed~~].

12VAC5-230-970. Specialty level newborn services.

A. Existing [~~neonatal special care units providing~~] specialty level newborn services as designated in 12VAC5-410-443 [~~located within 90 minutes driving time one way under normal conditions~~] should achieve 85% average annual occupancy before new specialty level newborn services can be added to the [health] planning region.

B. [~~Neonatal special care units providing specialty~~] level newborn services as designated in 12VAC5-410-443 should contain a minimum of 18 bassinets [~~stations or beds. A station shall equal one bed~~].

C. No more than four bassinets [~~stations and beds~~] for specialty level newborn services as designated in 12VAC5-410-443 per 1,000 live births should be established in each [health] planning region [~~with a bassinets or station counting as the equivalent of one bed~~].

D. Proposals to establish specialty level [~~neonatal special care~~] services as designated in 12VAC5-410-443 shall demonstrate that service volumes of existing specialty level [~~neonatal special care newborn service~~] providers located within the travel time listed in 12VAC5-230-940 will not be [significantly] reduced.

12VAC5-230-980. Subspecialty level newborn services.

A. Existing [~~neonatal special care units providing~~] subspecialty level newborn services as designated in 12VAC5-410-443 [~~located within 90 minutes driving time~~

~~one way under normal conditions~~] should achieve 85% average annual occupancy before new subspecialty level newborn services can be added to the [health] planning region.

B. [~~Neonatal special care units providing subspecialty~~] level newborn services as designated in 12VAC5-410-443 should contain a minimum of 18 bassinets [~~stations or beds. A station shall equal one bed~~].

C. No more than four bassinets [~~stations and beds~~] for subspecialty level newborn services as designated in 12VAC5-410-443 per 1,000 live births should be established in each [health] planning region [~~with a bassinets or station counting as the equivalent of one bed~~].

D. Proposals to establish subspecialty level [~~neonatal special care newborn~~] services as designated in 12VAC5-410-443 shall demonstrate that service volumes of existing subspecialty level [~~neonatal special care newborn~~] providers located within the travel time listed in 12VAC5-230-940 will not be [significantly] reduced.

12VAC5-230-990. Neonatal services.

The application shall identify the service area and the levels of service of all the hospitals to be served by the proposed service.

12VAC5-230-1000. Staffing.

All levels of neonatal special care services should be under the direction or supervision of one or more qualified physicians as described in 12VAC5-410-443.

VA.R. Doc. No. R03-117; Filed December 16, 2008, 12:01 p.m.



TITLE 13. HOUSING

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

Final Regulation

<p>REGISTRAR'S NOTICE: The Virginia Housing Development Authority is exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) pursuant to § 2.2-4002 A 4; however, under the provisions of § 2.2-4031, it is required to publish all proposed and final regulations.</p>
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Title of Regulation: 13VAC10-20. Rules and Regulations for Multi-Family Housing Developments (amending 13VAC10-20-40).

Statutory Authority: § 36-55.30:3 of the Code of Virginia.

Effective Date: December 15, 2008.

Agency Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere

Street, Richmond, VA 23220, telephone (804) 343-5540 or email judson.mckellar@vhda.com.

Summary:

The amendments permit the authority's board to authorize by resolution the executive director to approve and to authorize the issuance of commitments for multifamily mortgage loans without further approval or authorization by resolution of the board, subject to compliance with any procedures and requirements that may be provided in such resolution. Current regulations authorize the board by resolution to adopt procedures that provide for its prior review and consideration of the recommendations of the executive director before the executive director may approve the mortgage loan and authorize the issuance of a commitment. This technical amendment gives the board broader authority to delegate authorization to the executive director to approve multifamily mortgage loans and authorize the issuance of commitments for such loans, subject to such procedures and requirements as the board may impose.

13VAC10-20-40. Application and acceptance for processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority. The applicant shall complete a previous participation certificate, in such form as the executive director shall require, which shall provide information about rental housing projects in which the principal participants (or their affiliates) in the proposed development have previously had any interest or participation, all as more fully specified by the executive director.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience, financial capacity and predisposition to regulatory compliance of the applicant;
3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;

4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and

5. A preliminary evaluation of the need for such housing at rentals or prices which persons and families of low and moderate income can afford within the general housing market area to be served by the proposed development.

Based on the authority's review of the applications, previous participation certificates, documents, and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines satisfy the following criteria:

1. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

2. Subject to further review and evaluation by the authority's staff under 13VAC10-20-50, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

3. Subject to further review and evaluation by the authority's staff under 13VAC10-20-50, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the units to such persons and families; and (iii) sustain the operation of the proposed development.

4. The applicant and other principal participants in the proposed development have the experience, ability, financial capacity and predisposition to regulatory compliance necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development and will fully and properly perform all of their respective duties and obligations relating to the proposed development under law, regulation and the applicable mortgage loan documents of the authority.

5. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

Regulations

6. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in 13VAC10-20-50 and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of this chapter and without unreasonable delay, interruptions or expense.

The executive director's determinations with respect to the above criteria shall be based on the documents and information received or obtained by him at that time from any source and are subject to modification or reversal upon his receipt of additional documents or information at a later time. If the executive director determines that the above criteria are satisfied, he will recommend to the board that the application be approved for further processing. If the executive director determines that one or more of the above criteria are not satisfied, he may nevertheless, in his discretion, recommend to the board that the application be approved for further processing and that the mortgage loan and issuance of the commitment therefor be approved and authorized subject to satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. The board shall review and consider the recommendation of the executive director, and if it concurs with such recommendation, it may by resolution approve the application and authorize the mortgage loan and the issuance of a commitment therefor, subject to the further review in 13VAC10-20-50 and such terms and conditions as the board shall require in such resolution. However, the board may by resolution ~~adopt procedures that provide for its review and consideration of the recommendations of the executive director and that, upon compliance with such procedures,~~ authorize the executive director to approve, and to authorize the issuance of commitments for, mortgage loans without further approval or authorization by resolution of the board. ~~If such procedures are then in effect and if the requirements therein for the authorization of the executive director to approve the mortgage loan and authorize the issuance of a commitment therefor have been satisfied,~~ subject to compliance with any procedures and requirements that may be provided in such resolution; and pursuant to and in accordance with such resolution, the executive director may approve and authorize the mortgage loan and the issuance of a commitment therefor without further approval or authorization by the board, subject to the further review in 13VAC10-20-50 and such terms and conditions as the executive director may require.

A resolution authorizing, or a commitment for, a mortgage loan to a for-profit housing sponsor may prescribe the maximum annual rate, if any, at which distributions may be made by such for-profit housing sponsor with respect to the development, expressed as a percentage of such for-profit

housing sponsor's equity in such development (such equity being established in accordance with 13VAC10-20-80), which rate, if any, shall not be inconsistent with the provisions of the Act. In connection with the establishment of any such rates, the board or the executive director shall not prescribe differing or discriminatory rates with respect to substantially similar developments. The resolution or commitment shall specify whether any such maximum annual rate of distributions shall be cumulative or noncumulative and shall establish the manner, if any, for adjusting the equity in accordance with 13VAC10-20-80.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto. If the executive director determines not to recommend approval of the application, he shall so notify the applicant.

VA.R. Doc. No. R09-1661; Filed December 9, 2008, 12:40 p.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Proposed Regulation

Title of Regulation: **18VAC160-20. Board for Waterworks and Wastewater Works Operators Regulations (amending 18VAC160-20-10, 18VAC160-20-74, 18VAC160-20-76, 18VAC160-20-80, 18VAC160-20-90, 18VAC160-20-102, 18VAC160-20-104, 18VAC160-20-106, 18VAC160-20-109, 18VAC160-20-140, 18VAC160-20-150; adding 18VAC160-20-82, 18VAC160-20-84, 18VAC160-20-96, 18VAC160-20-97, 18VAC160-20-98).**

Statutory Authority: § 54.1-2301 of the Code of Virginia.

Public Hearing Information:

February 5, 2009 - 10 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 200, Richmond, VA

Public Comments: Public comments may be submitted until March 6, 2009.

Agency Contact: David E. Dick, Executive Director, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, 9960 Mayland Drive, Suite

400, Richmond, VA 23233, telephone (804) 367-2648, FAX (804) 527-4297, or email waterwasteoper@dpor.virginia.gov.

Basis: Section 54.1-2301 C of the Code of Virginia states that the board shall establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators. Further, the board, in consultation with the Board of Health, shall adopt regulations for the licensure of (i) onsite soil evaluators; (ii) installers of alternative onsite sewage systems as defined in § 32.1-163; and (iii) operators of alternative onsite sewage systems as defined in § 32.1-163. Such regulations shall include requirements for (a) minimum education and training, including approved training courses; (b) relevant work experience; (c) demonstrated knowledge and skill; (d) application fees to cover the costs of the program, renewal fees, and schedules; and (e) other criteria the board deems necessary.

Purpose: The Virginia General Assembly, as evidenced by passing relevant legislation during the 2007 session, considered the regulation of onsite soil evaluators, sewage system installers, and sewage system operators as essential to protecting the health, safety, and welfare of the citizens of the Commonwealth. The board has adopted the proposed amendments to its existing regulations to implement the regulation of onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators as mandated by the provisions of Chapters 892 and 924 of the 2007 Acts of Assembly.

The goal is to transfer the existing Department of Health regulatory program for onsite soil evaluators to the Department of Professional and Occupational Regulation and to establish a new regulatory program for onsite sewage system installers and operators with a minimum adverse impact on commerce. Additionally, the goal includes assuring that competent professionals are available to the public in need of onsite sewage system products and services. The environment benefits by having onsite sewage systems planned, installed, and operated by competent individuals who can best guide the consuming public in managing wastewater so as to avoid adverse impact. The public will be readily able to identify and access the services of competent individuals through a regulatory program that does not currently exist.

Substance: 18VAC160-20-10 is amended to add definitions necessary to implement the new provisions and to amend existing definitions to differentiate between the existing regulants and the new regulants.

18VAC160-20-74 is amended to differentiate between the existing and the new regulants and to clarify which license is required to lawfully perform specific functions.

18VAC160-20-76 is amended to conform to the department's model regulations and to add language providing for the new professions.

18VAC160-20-80 is amended to include the new professions.

18VAC160-20-82 is a new section that creates an interim license for individuals holding a Virginia Department of Health (VDH) authorized onsite soil evaluation certification on the effective date of the regulation. Current VDH regulants are provided a means to continue lawful employment while preparing to meet the new regulation's licensing requirements.

18VAC160-20-84 is a new section that creates an interim license for individuals who have been practicing as onsite sewage system installers and operators prior to the effective date of the regulation. Standards have been proposed that should allow those currently practicing to continue lawful practice after the effective date of the amendments under an interim license.

18VAC160-20-90 is amended to make clear that its provisions apply only to waterworks and wastewater works operators.

18VAC160-20-96 is a new section that creates qualifications for licensure for onsite soil evaluators.

18VAC160-20-97 is a new section that creates qualifications for licensure for onsite sewage system installers.

18VAC160-20-98 is a new section that creates qualifications for licensure for onsite sewage system operators.

18VAC160-20-102 is amended to clarify that all fees are nonrefundable and deletes the dishonored check fee language. DPOR has statutory authority to recover dishonored check costs, and the regulation provision is no longer necessary. The application and renewal fees for the new professions will be the same as the existing professions.

18VAC160-20-104 is amended to make its provisions applicable to those holding interim licenses as well as those holding licenses and provisional licenses.

18VAC160-20-106 is amended to enable the licenses for onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators to expire 24 months from the last day of the month wherein issued. The amendment also makes interim licenses non-renewable, and it makes the act of submitting a license renewal application and fee to DPOR serve as a certification by the licensee that he is in compliance with the board's regulations and has completed the required Continuing Professional Education (CPE).

18VAC160-20-109 is amended to establish a continuing professional education (CPE) requirement of 10 hours per 24-month license cycle for conventional evaluators, installers,

Regulations

and operators; and 20 hours per 24-month license cycle for alternative evaluators, installers, and operators.

18VAC160-20-140 is amended to include the new professions, including those holding an interim license, under the standards of practice provisions currently applicable to waterworks and wastewater works operators. A new subsection is added to enable the board to discipline any licensee or interim licensee who undertakes to perform or performs a professional assignment for which he is not qualified by education or training.

18VAC 160-20-150 is amended to allow the new professions to qualify for experience substitutions in the same manner as Class I, Class II, and Class III waterworks and wastewater works operators.

Issues: The primary advantage to the public is the availability of minimally competent onsite sewage system professionals. More homes are being constructed on land that will not "perk," making it critical to both the homeowner and to the environment that the more technologically advanced sewage treatment systems be available through licensees competent to properly plan, install, and operate onsite sewage systems. There may be some disadvantage through higher costs for sewage goods and services; however, this impact was evaluated by the Department of Planning and Budget as a part of the legislative process during the 2007 session. Staff and committee members who developed this proposal did so with a strong concern to minimizing adverse impact.

The primary advantage to the agency and the Commonwealth is the successful implementation of a legislative mandate. No disadvantage has been identified.

Substantial consideration has been given to the inevitable impact of a new legislative mandate on those directly affected: the authorized onsite soil evaluators currently regulated by the Virginia Department of Health, the onsite sewage system installers and operators not currently regulated by any agency of the Commonwealth, as well as their clients. An interim license provision will allow those currently practicing to continue to practice lawfully for a period of time amply sufficient to meet the new licensing requirements. An orderly transition to the new regulatory program has been created.

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

Anyone wishing to submit written comments may do so by mail, email, or fax to David E. Dick, Executive Director, 9960 Mayland Drive, Richmond, VA 23233-1485, (804) 367-2648, FAX (804) 527-4297, email waterwasteoper@dpor.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

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

Summary of the Proposed Amendments to Regulation. Pursuant to § 54.1-2301 of the Code of Virginia, the Board of Waterworks and Wastewater Works Operators and Onsite Sewer System Professionals (Board) proposes to establish programs for the licensure of onsite sewage system installers, onsite sewage system operators and onsite soil evaluators.

Result of Analysis. There is insufficient information to determine whether benefits will outweigh costs for these proposed regulatory changes. Estimated costs and benefits are discussed below.

Estimated Economic Impact. Historically, onsite sewage system installers and operators have not had to be licensed in the Commonwealth. During its 2008 session, the General Assembly passed legislation requiring licensure for these occupations and tasked the Board of Waterworks and Wastewater Works Operators (Board) with writing regulations for these license programs. The Board proposes to amend its regulations to set interim license and license requirements for these occupations. Under these proposed regulations, the Board will issue interim onsite sewage system installer and operator licenses to individuals who have:

- Filed an application within 12 months of the effective date of these regulatory amendments and paid the application fee (\$100),
- Passed the appropriate Board approved exam (approximately \$84) and
- Provided the Board with a physical home address.

Applicants for interim licensure must also be in good standing in their field of practice and must not have been convicted of a misdemeanor involving lying, cheating or stealing or of any misdemeanor related to their field of practice.

Additionally, in order to qualify for interim licensure, conventional onsite sewage system installers and alternate onsite sewage system installers must have six months of full-time experience working with a firm that has a VDH issued sewage handling and disposal permit. Conventional onsite sewage system operators and alternate onsite sewage system operators must have 12 months of full-time experience working as operators. Interim licenses issued under these

proposed regulations will be valid for 24 months and cannot be renewed.

These interim licensure requirements will allow some individuals who currently work as onsite sewage installers or operators, but who do not meet requirements for non-interim licensure, to continue working in their current jobs. Onsite sewage system installers who have worked for less than six months (operators who have worked for less than 12 months) and also do not meet any of the requirements for non-interim licensure will not be able to obtain a license until they can fulfill those requirements. The number of individuals who are adversely affected in this way is likely to be small since requirements for conventional licensure in these fields (discussed below) are not exceedingly onerous.

In order to obtain a (non-interim) license, applicants for licensure as conventional onsite sewage system installers must pass a Board approved exam and have either:

- Two years experience (in the four years immediately preceding application for licensure) installing onsite sewage systems under the direction of a licensed sewage disposal system contractor or
- Certification of work competency from three onsite soil evaluators or professional engineers.

Applicants for licensure as alternative onsite sewage system installers will have to pass the Board approved exam and must have proof of one of the following:

- The applicant must have installed 36 onsite sewage systems during the three years immediately preceding application. Of the 36 systems installed, six must have been alternate systems and three must have had something other than a gravity subsurface drainfield.
- The applicant must have installed 12 alternate onsite sewage systems **before the effective date of these proposed regulations**, six of these systems must have had something other than a gravity subsurface drainfield. This option will become obsolete if the bolded language above remains in the regulation as it will not allow work done after the effective date of these proposed regulations to be counted toward experience requirements.

Applicants for licensure as conventional onsite sewage system operators will have to pass the Board approved exam and must have:

- A high school diploma or GED or
- One year of full-time experience working as a sewage handler or one year of full-time work under the direct supervision of a licensed conventional or alternate onsite sewage system operator.

Applicants for licensure as alternative onsite sewage system operators will have to pass the Board approved exam and must have one of the following:

- A high school diploma or GED and 12 months experience working full-time under the direct supervision of a licensed alternate onsite sewage system operator,
- 24 months experience working full-time under the direct supervision of a licensed alternate onsite sewage system operator or
- A valid Class 4 or higher wastewater works operator license and proof of successful completion of a Board approved training course or six months of experience working full-time under the direct supervision of a licensed alternate onsite sewage system operator.

Licenses for onsite sewage system installers and operators are valid for 24 months. Conventional onsite sewage system installers and operators must complete 10 hours of continuing education, and alternative onsite sewage system installers and operators must complete 20 hours of continuing education, during each biennial renewal cycle. The license renewal fee for all licensees is \$80.

The costs of requiring licensure for onsite sewage system installers and operators include the cost of education obtained (tuition, fees and wages forgone), license and exam fees, the value of time spent studying for and completing the required exams, the value of time spent completing required continuing education and any wages lost by individuals who had to stop working at these jobs until they could meet licensure requirements. These costs can be weighed against the benefit of possibly decreasing any health problems that may arise from improperly installed or maintained sewage systems.

Currently, onsite soil evaluators are licensed by the Virginia Department of Health (VDH). In order to be licensed (by VDH) as an authorized onsite soil evaluator (AOSE), individuals had to fill out an application, pay a \$100 application fee, pass the required exam, provide three professional references and meet one of the various requirements for education/experience. An applicant for licensure must have:

- A current certificate as a Virginia Certified Professional Soil Scientist or
- A four year degree in a subject related to the area of licensure (such as science or engineering), four years of full-time experience and a certificate of completion for a VDH approved training course or
- A two or four year degree, six years of full-time experience, a certificate of completion for a VDH approved training course and a written statement from a

Regulations

current or former supervisor or AOSE stating that the applicant is sufficiently experienced to be licensed or

- Eight years of full-time experience, a certificate of completion for a VDH approved training course and a written statement from a current or former supervisor or AOSE stating that the applicant is sufficiently experienced to be licensed.

Chapter 892 of the 2007 Acts of the Assembly required the Board, in consultation with VDH, to adopt regulations for onsite soil evaluators. The Board has amended its regulations to add requirements for interim licensure of onsite soil evaluators and for (non-interim) licensure of conventional and alternative onsite soil evaluators. Individuals who already have been licensed as soil evaluators by VDH may apply for an interim license (\$100 fee) within six months of the effective date of these proposed regulations. Interim licenses will expire 36 months after they are issued and are not renewable. Individuals who do not qualify for interim licensure may apply for licensure as either a conventional onsite soil evaluator or as an alternative onsite soil evaluator.

An applicant for licensure as a conventional onsite soil evaluator (\$100 fee) must have a valid interim onsite soil evaluator license or pass a Board approved exam (cost ~\$84) and have one of the following:

- A current certificate as a Virginia Certified Professional Soil Scientist and one year of full-time onsite soil evaluation experience,
- A four year degree in soil science, biology, chemistry, engineering or environmental science and two years of supervised full-time onsite soil evaluation experience ,
- A two year degree in waterworks, wastewater works, engineering technology or environmental science and three years of supervised full-time onsite soil evaluation experience or
- Eight years of supervised full-time onsite soil evaluation experience.

An applicant for licensure as an alternative onsite soil evaluator (\$100 fee) must have a valid interim onsite soil evaluator license or pass a Board approved exam (cost ~\$84) and have one of the following:

- Two years of full-time supervised experience in evaluating and designing onsite sewage systems obtained in the four years immediately preceding application,
- Three years of supervised full-time experience as a VDH certified AOSE and evidence of completed work on at least 36 onsite sewage systems (12 of these must be alternative systems) or
- Four years of full-time experience as a licensed conventional onsite soil evaluator.

Licenses for onsite soil evaluators are valid for 24 months before they must be renewed. Conventional onsite soil evaluators must complete 10 hours of continuing education, and alternative onsite soil evaluators must complete 20 hours of continuing education, during each biennial renewal cycle. The license renewal fee for all licensees is \$80.

The costs of licensure for onsite soil evaluators include the cost of education obtained for licensure (tuition, fees and wages forgone), license and exam fees, the value of time spent studying for and completing the required exams, the value of time spent completing required continuing education and any wages lost from wage differentials between licensed individuals and supervised workers for years spent working to meet licensure requirements. These costs can be weighed against the benefit of possibly decreasing any health problems that may arise from improperly placed sewage systems. The costs for licensure can likely be further minimized by reducing the eight years of experience required to obtain licensure as an onsite soil evaluator without a degree. This requirement seems to be dictated by tradition rather than any evidence that it takes the better part of a decade working in this field to assure competency.

Businesses and Entities Affected. The Department of Professional and Occupational Regulation (DPOR) reports that VDH currently licenses approximately 200 onsite soil evaluators. These individuals, plus all individuals who work as onsite sewage system installers or operators, will be affected by these proposed regulations.

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

Projected Impact on Employment. To the extent that these proposed regulations, and their authorizing legislation, increase the cost of entry into these fields, the number of individuals who choose to work as soil evaluators, sewage system installers and sewage system operators is likely to decrease.

Effects on the Use and Value of Private Property. To the extent that these proposed regulations increase costs for affected individuals or firms, business profits may be reduced. If this occurs, the value of these businesses will likely be reduced.

Small Businesses: Costs and Other Effects. Most, if not all, of the individuals and firms that will be affected by these proposed regulations qualify as small businesses. Accordingly, all cost discussed above will affect small businesses in the Commonwealth.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The costs for onsite soil evaluator licensure can likely be further minimized by reducing the eight years of experience required to obtain licensure as an onsite soil evaluator without a degree. This requirement seems to be dictated by tradition rather than any evidence that it takes the

better part of a decade working in this field to assure competency.

Real Estate Development Costs. This regulatory action will likely increase real estate development costs in the Commonwealth as the cost of installing sewage systems increase to account for the higher costs of becoming a sewage system installer or operator.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals appointed a nine-member committee to develop the proposed regulation amendments to implement the regulation of onsite sewage system professionals.

The committee members are experts in sewage treatment and the regulation of sewage treatment. The committee is composed of three board members from the onsite sewage system community, the board member from the Virginia Department of Health (VDH), the board member from the Virginia Department of Environmental Quality (DEQ), the board member holding the highest class of wastewater works operator license, and the board's citizen member. The administrator of the current VDH authorized onsite soil evaluator regulatory program and an Environmental Engineering and Policy Development Manager from the Loudoun County Health Department were also included. The committee has experts from all perspectives of sewage

treatment regulation with an emphasis on onsite sewage treatment.

The committee experts examined the current VDH regulatory program for onsite soil evaluators, the professionals who determine a site's suitability for onsite sewage systems, focusing on the experiences of VDH and of localities where onsite sewage systems are common. Based on their examination of the current VDH program, their expertise, and their consideration of the costs, they concluded that to assure public protection, eight years of experience was the minimum necessary to obtain an onsite soil evaluator license for those individuals with no college degree.

The requirement was, therefore, based on the conclusions of subject matter experts rather than VDH tradition (even though the amount of experience required in the proposed regulations is consistent with VDH's current regulations).

The board will seek public comment on this specific provision.

Otherwise, the board agrees with the EIA.

Summary:

The proposed amendments establish a program for licensing individuals as onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators as mandated by § 54.1-2301 of the Code of Virginia. The amendments include requirements for minimum education and training, relevant work experience, demonstrated knowledge and skills, and fees to cover program costs.

CHAPTER 20
BOARD FOR WATERWORKS AND WASTEWATER
WORKS OPERATORS AND ONSITE SEWAGE SYSTEM
PROFESSIONALS REGULATIONS

Part I

Definitions, Licensing and Classification Requirements

18VAC160-20-10. Definitions.

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

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

"Alternative onsite sewage system installer" means an individual licensed by the board to construct, install, and repair a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

"Alternative onsite sewage system operator" means an individual licensed by the board to (i) place into or take out of

Regulations

service a unit process or unit processes; (ii) make or cause adjustments in the operation of a unit process at a treatment works; or (iii) determine if a component or device is functional.

"Alternative onsite soil evaluator" means an individual licensed by the board to construct, install, and repair a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge.

"Authorized onsite soil evaluator" or "AOSE" means an individual holding an authorized onsite soil evaluator certification issued by the Virginia Department of Health that is valid on the effective date of this chapter.

"Board" means the Board for Waterworks and Wastewater Works Operators.

~~"Category" means the two divisions of waterworks and wastewater works operators' licenses, one being waterworks and the second being wastewater works~~ waterworks operator, wastewater works operator, onsite soil evaluator, onsite sewage system installer, and onsite sewage system operator.

"Classification" means the divisions of each category of waterworks and wastewater works operators' licenses into classes where Class "I" represents the highest classification.

"Classified facility" means a waterworks that has been granted a classification by the Virginia Department of Health or a wastewater works that has been granted a classification by the Virginia Department of Environmental Quality.

"Contact hour" means 50 minutes of participation in a structured training activity.

"Continuing Professional Education (CPE)" means participation in a structured training activity that enables a ~~licensed waterworks operator licensee~~ to maintain and increase the competence required to assure the public's protection.

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

"Conventional onsite sewage system installer" means an individual licensed to construct, install, and repair conventional onsite sewage systems.

"Conventional onsite sewage system operator" means an individual licensed by the board to (i) place into or take out of service a unit process or unit processes; or (ii) make or cause adjustments in the operation of a unit process at a conventional onsite sewage system; and (iii) determine whether a component or device is functional.

"Conventional onsite soil evaluator" means an individual licensed by the board to evaluate soils and soil properties in relationship to the effects of these properties on the use and

management of these soils as the locations for conventional onsite sewage systems.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Direct supervision" means being responsible for the compliance with the chapter by any individual who is engaged in activities requiring an operator, installer, or evaluator license, but who is not licensed to perform those duties, for the purpose of obtaining the competence necessary to qualify for licensure.

"Direct supervisor" means a licensed operator, installer, or evaluator who undertakes the supervision of an unlicensed individual engaged in activities requiring a license for the purpose of obtaining the competence necessary to qualify for licensure and who shall be responsible for the unlicensed individual's full compliance with this chapter.

"Experience" means time spent learning how to physically and theoretically operate the waterworks ~~or~~ wastewater works, or onsite sewage system as an operator-in-training or time spent operating a waterworks or wastewater works for which the operator is currently licensed for the purpose of obtaining the necessary competence to qualify for a specific license. Experience also means the time spent under the direct supervision of an authorized onsite soil evaluator, onsite soil evaluator licensee, onsite sewage system installer licensee or onsite site sewage system operator licensee for the purpose of obtaining the necessary competence to qualify for a specific license.

"Interim license" means a method of regulation whereby the board authorizes an unlicensed individual to engage in activities requiring a specific license provided for in this chapter for a limited time to obtain the necessary competence to qualify for that specific license.

"Interim licensee" means an individual holding a valid interim license.

"Licensed operator" means an operator with a license in the category ~~and with a~~ of onsite sewage systems operator, waterworks operator, or wastewater works operator. For waterworks operators and wastewater works operators, the license classification must be equal to or higher than the classification of the waterworks or wastewater works being operated.

"Licensee" means an individual holding a valid license issued by the board.

"Licensure" means a method of regulation whereby the Commonwealth, through the issuance of a license, authorizes a person possessing the character and minimum skills to engage in the practice of a profession or occupation that is unlawful to practice without a license.

"Maintenance" means performing adjustments to equipment and controls and in-kind replacement of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, or other like components. Maintenance includes pumping the tanks or cleaning the building sewer on a periodic basis. Maintenance shall not include replacement of tanks, drain field piping, distribution boxes, or work requiring a construction permit and a licensed onsite sewage system installer.

"Nonclassified facility" means a facility located in Virginia that has not been classified by the Virginia Department of Health or a facility that has not been classified by the Virginia Department of Environmental Quality.

"Onsite sewage system" means a conventional onsite sewage system or an alternative onsite sewage system.

"Operate" means any act of an individual, ~~which that~~ may impact on the finished water quality at a waterworks or the plant effluent at a wastewater works.

"Operating staff" means individuals employed or appointed by an owner to work at a waterworks or wastewater works.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks or wastewater works operations or to operate onsite sewage systems. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks or wastewater works.

"Operator-in-training" means an individual employed by an owner to work under the direct supervision and direction of an operator holding a valid license in the proper category and classification for the purpose of gaining experience and knowledge in the duties and responsibilities of an operator of a waterworks or wastewater works. An operator-in-training is not an operator.

"Owner" means the Commonwealth of Virginia, or any political subdivision thereof, any public or private institution, corporation, association, or any other entity organized or existing under the laws of this Commonwealth or of any other state or nation, or any person or group of persons acting individually or as a group, who own, manage, or maintain waterworks or wastewater works.

"Provisional licensee" means an individual holding a valid provisional license issued by the board.

"Provisional licensure" or "provisional license" means a method of regulation whereby the Commonwealth recognizes an individual as having met specific standards but who is not authorized to operate a classified facility until he has met the

remaining requirements for licensure and has been issued a license.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Responsible charge" means the designation by the owner of any individual to have the duty and the authority to operate a waterworks or wastewater works.

"Sewage" means water-carried and nonwater-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes separately or together with such underground, surface, storm or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage handler" means any person who removes or contracts to remove and transports by vehicle the contents of any septic tank, sewage treatment plant, privy, holding tank, portable toilet or any sewage, septage or sewage sludges that have been processed to meet acceptable treatment standards of the Sewage Handling and Disposal Regulations (12VAC5-610).

"Sewerage system" means pipelines or conduits, pumping stations and force mains, and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal, as defined in the Sewage Handling and Disposal Regulations (12VAC5-610).

"Structured training activity" means a formal educational process designed to permit a participant to learn a given subject or subjects through interaction with an instructor in a course, seminar, conference, distance learning, or other performance-oriented format.

"Transportation" means the vehicular conveyance of sewage, as defined in § 32.1-163 of the Code of Virginia.

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes including, but not limited to, pumping, power and other equipment and appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluent resulting from such treatment as defined in the Sewage Handling and Disposal Regulations (12VAC5-610).

"VDH" means Virginia Department of Health.

"Wastewater works" means a system of (i) sewerage systems or sewage treatment works serving more than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia; (ii) sewerage systems or sewage treatment works serving fewer than 400 persons, as set forth in § 62.1-44.18 of the Code of Virginia, if so certified by the State Water Control Board; and (iii) facilities for discharge into state waters of

Regulations

industrial wastes or other wastes, if certified by the State Water Control Board.

"Wastewater works operator" means any individual employed or appointed by any owner, who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control wastewater works operations. Superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of wastewater works are not included in this definition.

"Waterworks" means a system that serves piped water for drinking or domestic use to (i) at least 15 connections or (ii) at least 25 of the same individuals for more than six months out of the year. The term waterworks shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment and distribution of pure water, except the piping and fixtures inside the building where such water is delivered.

"Waterworks operator" means any individual employed or appointed by any owner, who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks operations. Superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks are not included in this definition.

Part II

License Requirements

18VAC160-20-74. License required.

A. To serve as an operator of a waterworks or wastewater works, it shall be necessary to hold a valid license issued by the board for a classification equal to or greater than the classification of the waterworks or wastewater works to be operated and in the appropriate category. Issuance of a new classification of license shall void all previously issued licenses in the same category. No licensee shall hold two licenses of different classifications in the same category. The board shall issue a license only after an individual has met all experience and examination requirements as set forth in this chapter.

B. Provisional licensure shall not authorize an individual to serve as the operator of a classified waterworks or waste waterworks facility.

C. No person shall act as an conventional onsite soil evaluator, alternative onsite soil evaluator, conventional onsite sewage system installer, alternative onsite sewage system installer, conventional onsite sewage system operator, or alternative onsite sewage system operator without

possessing a valid license issued by the board. Issuance of an alternative license shall void all previously issued conventional licenses. No licensee shall hold both a conventional and an alternative license simultaneously. The board shall issue a license only after an individual has met all experience and examination requirements as set forth in this chapter.

D. No person shall act as an alternative onsite sewage system operator of an alternative onsite sewage system that exceeds 10,000 gallons per day design flow without possessing the appropriate class of wastewater works operator license in addition to an alternative onsite sewage system operator license.

18VAC160-20-76. Application.

A. Application shall be made as follows:

1. Individuals desiring to sit for the board's examination shall apply on forms made available by the board or by an examination vendor approved by the board.
2. Individuals who have passed the board's examination shall apply for a license on forms made available by the board or by an examination vendor approved by the board.
3. All applications shall be completed in accordance with the accompanying instructions and shall have all required documentation attached.
4. The examination fee established in 18VAC160-20-102 shall accompany each examination application and the application fee established in 18VAC160-20-102 shall accompany each license application.

B. The receipt of an application and the deposit of fees in no way indicates approval of an application.

C. All fees shall be nonrefundable.

D. Individual applicants shall be at least 18 years of age.

~~E. Each applicant for a license shall have passed the board's examination and shall disclose the following information about himself:~~

~~1. Any conviction by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating or stealing, or of any misrepresentation while engaged in waterworks or wastewater works activities. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be prima facie evidence of such conviction or discipline.~~

~~2. Any disciplinary action taken by the board or another jurisdiction in connection with the applicant's activities as a waterworks or wastewater works operator, including but not limited to, monetary penalties, fines, suspension,~~

~~revocation, or surrender of a license in connection with a disciplinary action.~~

~~3. His physical address. A post office box shall not be accepted in lieu of a physical address.~~

E. Each applicant shall disclose his physical home address. A post office box shall not be accepted in lieu of a physical address.

F. Each applicant for a license shall have passed the appropriate board-approved examination.

G. Each applicant shall be in good standing as a licensed waterworks operator, wastewater works operator, onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer in every jurisdiction where licensed; and the applicant shall not have had a license as a waterworks operator, wastewater works operator, onsite soil evaluator, onsite sewage system operator, or onsite sewage system installer that was suspended, revoked or surrendered in connection with a disciplinary action or that has been the subject of disciplinary action in any jurisdiction prior to applying for licensure in Virginia.

H. Each applicant shall not have been convicted or found guilty, regardless of the manner of adjudication, in any jurisdiction of the United States of any misdemeanor involving lying, cheating, or stealing; of any misdemeanor directly related to the practice of a waterworks operator, a wastewater works operator, an onsite soil evaluator, an onsite sewage system operator, or an onsite sewage system installer; or of any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of conviction, authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted, shall be admissible as prima facie evidence of such conviction or guilt. Review of prior criminal convictions shall be subject to the provisions of § 54.1-204 of the Code of Virginia.

I. Applicants for licensure who do not meet the requirements set forth in subsections G and H of this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.

J. Examinations. A board-approved examination shall be administered by the board or by an examination vendor approved by the board.

1. Each individual applying to sit for the examination shall satisfy the licensure requirements established by this chapter before being approved to sit for the examination. Individuals approved to sit for the examination shall be provided with written instructions for examination registration.

2. Examinees will be given specific instructions as to the conduct of the examination at the examination site. Examinees shall follow these instructions during the course of the examination. Misconduct may result in removal from the examination site, voided examination scores, the denial of the application, or any combination of the foregoing.

3. Upon submission of an application for reexamination and payment of the examination fee established in 18VAC160-20-102, an applicant who is unsuccessful in passing the examination shall be allowed to retake the examination an unlimited number of times within one year after the date that the application to sit for the examination was approved. If the one-year period elapses, then the applicant shall submit a new application to sit for the examination establishing that he meets the then-current requirements of this chapter and the examination fee established in 18VAC160-20-102.

K. Licensure. Individuals who have passed the board-approved examination shall apply for licensure and shall satisfy the licensure requirements established in this chapter.

18VAC160-20-80. Individuals certified or licensed in other jurisdictions.

Any applicant holding a valid license or certificate in another jurisdiction who meets the requirements of this chapter, including experience and education, may take shall pass the appropriate Virginia examination in the Virginia category and classification comparable to the license or certificate held in the other jurisdiction to become licensed.

18VAC160-20-82. Interim licensure of individuals holding an authorized onsite soil evaluator certificate issued by the Virginia Department of Health (VDH).

A. The board shall issue an interim onsite soil evaluator license to any individual who possessed a valid authorized onsite soil evaluator (AOSE) certification issued by the VDH on the effective date of this chapter, provided that the interim license application is received by the department no later than six months after the effective date of this chapter. AOSE-certified individuals who fail to have their application in the department's possession within six months after the effective date of this chapter shall not be eligible for an interim onsite soil evaluator license and shall apply for a license pursuant to 18VAC160-20-96.

B. An interim onsite soil evaluator licensee shall be authorized to act as a conventional onsite soil evaluator and as an alternative onsite soil evaluator.

C. Each interim onsite soil evaluator license shall expire on the last day of the month that is 36 months after the date of issuance by the department and shall not be subject to renewal.

Regulations

D. Each applicant for an interim onsite soil evaluator license shall make application in accordance with 18VAC160-20-76 and shall provide evidence that he possessed a valid AOSE certification issued by the VDH on the effective date of this chapter.

18VAC160-20-84. Interim license, onsite sewage system installer and operator.

A. The board may issue an interim onsite sewage system license to any individual who makes application in accordance with 18VAC160-20-76, and who meets the specific entry requirements of this section, provided that the application is received by the department no later than 12 months after the effective date of this chapter. Individuals who fail to have their application in the department's possession within 12 months after the effective date of this chapter shall not be eligible for an interim license and shall apply for a license pursuant to 18VAC160-20-97 or 18VAC160-20-98 as appropriate.

B. Each interim onsite sewage system license shall expire on the last day of the month that is 24 months after the date of issuance by the department and shall not be subject to renewal.

C. To maintain licensure, each interim onsite sewage system license holder shall apply for and be issued a license under the provisions of 18VAC160-20-97 or 18VAC160-20-98, as appropriate, before the interim onsite sewage system license expiration date.

D. Each applicant shall apply in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section.

E. Specific entry requirements - installer.

1. Interim conventional onsite sewage system installer applicants shall have six months of full-time experience working with a firm holding a Sewage Handling and Disposal Permit (SHDP) issued by the Virginia Department of Health (VDH).

2. Interim alternative onsite sewage system installer applicants shall have six months of full-time experience working with a firm holding a Sewage Handling and Disposal Permit (SHDP) issued by the VDH.

F. Specific entry requirements - operator.

1. Interim conventional onsite sewage system operator applicants shall have 12 months of full-time experience as a conventional onsite sewage system operator.

2. Interim alternative onsite sewage system operator applicants shall have 12 months of full-time experience as an alternative onsite sewage system operator.

18VAC160-20-90. ~~Licensure by experience and examination.~~ Qualifications for licensure of waterworks operators and wastewater works operators.

~~Licensure~~ A. Waterworks operator and wastewater works operator licensure is based upon having applicable experience and demonstrating minimum required knowledge, skills and abilities through an examination. Education, training, and experience in the other category may be substituted for the required experience as specified in this section.

~~A. B.~~ Experience. For purposes of this ~~chapter~~ section, experience requirements are expressed in terms of calendar periods of full-time employment as an operator or as an operator-in-training at a waterworks or wastewater works in the same category as the license being applied for. All experience claimed on the application for licensure must be certified by the individual's immediate supervisor.

1. A year of full-time employment is defined as a minimum of 1,760 hours during a 12-month period or a minimum of 220 workdays in a 12-month period. A workday is defined as attendance at a waterworks or wastewater works to the extent required for proper operation. More than 1,760 hours or 220 work days during a 12-month period will not be considered as more than one year of full-time employment.

2. Experience gained as an operator-in-training must be obtained under the supervision of an operator holding a valid license of the same category and of a classification equal to or higher than the classification of the waterworks or wastewater works at which the experience is gained. The supervising operator shall certify the experience on the application form as accurate and relevant to the classification and category of license for which the application is being submitted.

3. Partial credit may be given for actual hours of work or workdays experience if the applicant works as an operator or as an operator-in-training less than full time.

4. Experience solely limited to the operation and maintenance of wastewater collection systems and water distribution systems, laboratory work, plant maintenance, and other nonoperating duties shall not be counted as experience as an operator or as an operator-in-training.

5. Experience limited to water distribution system operation and maintenance shall be considered only when applying for a Class V or Class VI waterworks operator license.

~~B. C.~~ Specific requirements for licenses.

1. Specific requirements for a Class VI license. Applicants for licensure as a Class VI waterworks operator shall meet one of the following requirements and pass a board-approved examination:

- a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks; or
 - b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class VI, Class V, Class IV, Class III, Class II, or Class I waterworks.
2. Specific requirements for a Class V license. Applicants for licensure as a Class V waterworks operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class V, Class IV, Class III, Class II, or Class I waterworks; or
 - b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class V, Class IV, Class III, Class II, or Class I waterworks.
3. Specific requirements for a Class IV license. Applicants for licensure as either a Class IV waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a high school diploma or GED and (ii) at least six months of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or
 - b. Have (i) no high school diploma and (ii) at least one year of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate).
- Experience obtained as a licensed alternative onsite sewage system operator may substitute for the wastewater works operator in training experience requirements established under subdivisions a and b of this subdivision 3.
4. Specific requirements for a Class III license. Applicants for licensure as either a Class III waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) at least one year of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least one year of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate); or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - c. Have (i) a high school diploma or GED and (ii) at least two years of experience as an operator-in-training in a Class IV, Class III, Class II, or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - d. Have (i) a high school diploma or GED, (ii) a Class IV license, and (iii) a total of at least two years of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate); or
 - e. Have (i) no high school diploma, (ii) a Class IV license, and (iii) a total of at least four years of experience as an operator or operator-in-training in a Class IV waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class III, Class II, or Class I waterworks or wastewater works (as appropriate).
5. Specific requirements for a Class II license. Applicants for licensure as either a Class II waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:
- a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; and (ii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - b. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class IV license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months without substitutions shall be as an operator-in-training in a Class III, Class II or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - c. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class III license; and (iii) a total of at least 1-1/2 years of experience, of which at least six months, without substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate); ~~or~~
 - d. Have (i) a high school diploma or GED, (ii) a Class III license, and (iii) a total of at least four years of experience of which at least two years without

Regulations

substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate); or

e. Have (i) no high school diploma, (ii) a Class III license, and (iii) a total of at least seven years of experience of which at least three years without substitutions shall be as an operator or operator-in-training in a Class III waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class II or Class I waterworks or wastewater works (as appropriate).

6. Specific requirements for a Class I license. Applicants for licensure as either a Class I waterworks or wastewater works operator shall meet one of the following requirements and pass a board-approved examination:

a. Have (i) a bachelor's degree in engineering or engineering technology, or in physical, biological or chemical science; (ii) a Class II license; and (iii) a total of at least 2-1/2 years of experience, of which at least one year without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate); or

b. Have (i) a high school diploma or GED, (ii) a Class II license and (iii) a total of at least six years of experience of which at least two years without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate); or

c. Have (i) no high school diploma, (ii) a Class II license, and (iii) a total of at least 10 years of experience of which at least three years without substitutions shall be as an operator or operator-in-training in a Class II waterworks or wastewater works (as appropriate) or as an operator-in-training in a Class I waterworks or wastewater works (as appropriate).

C. Substitutions for required experience. For the purpose of meeting the experience requirements for Class III, Class II, and Class I licenses, experience in the other category, relevant training in waterworks and wastewater works operation, and formal education may be substituted for actual hands-on experience in the category being applied for.

1. Category experience substitution. One half of the actual experience gained in the other category may be substituted for required experience in the category of the license being applied for.

2. Education substitution. Education may be substituted for part of the required experience in the category of the license being applied for, subject to the following limitations:

a. Education used to meet the educational requirements for any class of license may not be substituted for experience.

b. Formal education courses at a post-secondary level in physical, biological or chemical science; engineering or engineering technology; waterworks or wastewater works operation; or public health may be substituted for part of the required experience.

(1) All education substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Education may be substituted for experience at a rate of up to one month experience for each semester hour of college credit approved by the board. One quarter hour of college credit will be considered equal to two thirds of a semester hour.

(3) Substitution of formal education experience will be approved by the board only for applicants who submit a transcript from the institution where the course was taken.

c. Training substitution. Waterworks or wastewater works operator training courses, seminars, workshops, or similar training, specifically approved by the board, may be substituted for part of the required experience.

(1) All training substituted for experience must be relevant to the category and classification of the license being applied for.

(2) Training may be substituted for experience at a rate of one month experience for each training credit approved by the board. Up to one training credit is awarded for each 10 hours of classroom contact time or for each 20 hours of laboratory exercise and field trip contact time. No credit towards training credits is granted for breaks, meals, receptions, and time other than classroom, laboratory and field trip contact time.

(3) All courses used for substitution must be approved by utilizing the criteria set forth in Part VI (18VAC160-20-160) of this chapter.

(4) Substitution of training for experience will be approved by the board only for applicants who submit a copy of an appropriate certificate identifying the subject matter of the course and the training credit value, and signed by a representative of the organization sponsoring the training.

3. Limitations on substitution.

a. Under no circumstances shall category experience, education, and training substitutions exceed 50% of the total experience required under this subsection.

b. No category experience, education, or training substitutions are permitted for the experience required to obtain a Class VI, Class V or a Class IV license as specified in subsection B of this section.

~~D. Examination. A board approved examination shall be administered by the board or by an examination vendor approved by the board.~~

~~1. Each individual applying to sit for the examination shall satisfy the experience standards established in this section before being approved to sit for the examination. Individuals approved to sit for the examination shall be provided with written instructions for examination registration.~~

~~2. Examinees will be given specific instructions as to the conduct of the examination at the examination site. Examinees shall follow these instructions during the course of the examination. Misconduct may result in removal from the examination site, voided examination scores, the denial of the application or any combination of the foregoing.~~

~~3. Upon submission of an application for reexamination and payment of the fee established in 18VAC160-20-102, an applicant who is unsuccessful in passing the examination shall be allowed to retake the examination an unlimited number of times within one year after the date the application to sit for the examination was approved. If the one year period elapses, then the applicant shall submit a new application to sit for the examination establishing that he meets the then current requirements of this chapter and the fee established in 18VAC160-20-102.~~

~~4. Each application for reexamination shall be accompanied by the fee established in 18VAC160-20-102.~~

~~E. Licensure. Individuals who have passed the board approved examination shall apply for licensure and shall satisfy the application requirements established in 18VAC160-20-76.~~

18VAC160-20-96. Qualifications for licensure - onsite soil evaluators.

A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section.

B. Specific entry requirements.

1. Conventional onsite soil evaluator (conventional onsite sewage system only). Each individual applying for an initial conventional onsite soil evaluator license shall have a valid interim onsite soil evaluator license or meet one of

the following requirements and pass a board-approved examination:

a. A valid certificate as a Virginia certified professional soil scientist from the Board for Professional Soil Scientists and Wetland Professionals and one year of full-time onsite soil evaluation experience;

b. Two years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator, and a bachelor's degree with a major in soil science, biology, chemistry, engineering or environmental science;

c. Three years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator, and an associate's degree in waterworks, wastewater works, environmental science, or engineering technology; or

d. Eight years of full-time experience evaluating site and soil conditions in compliance with this chapter under the direct supervision of a licensed conventional onsite soil evaluator or of a licensed alternative onsite soil evaluator.

2. Alternative onsite soil evaluator (alternative onsite sewage system only). Each individual applying for an initial alternative onsite soil evaluator license for alternative onsite sewage systems shall possess a valid interim onsite soil evaluator license or a valid conventional onsite soil evaluator license, pass a board-approved examination, and meet one of the following requirements:

a. Two years of full-time experience in evaluating and designing onsite sewage systems obtained during the last four years under a currently licensed alternative onsite soil evaluator licensee;

b. Three years of full-time experience as an authorized onsite soil evaluator certified by the Virginia Department of Health (VDH) and evidence of completing the soil evaluation and system design work on a total of at least 36 onsite sewage systems (12 of which must be alternative system permits approved by the VDH); or

c. Four years of full-time experience as a conventional onsite soil evaluator licensee.

Satisfactory completion of postsecondary courses in wastewater, biology, hydraulics, hydrogeology, or soil science may substitute for up to half of the above experience requirement at the rate of one month per semester hour or two-thirds of a month per quarter hour.

Regulations

18VAC160-20-97. Qualifications for licensure - onsite sewage system installers.

A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section for the license desired.

B. Specific entry requirements.

1. Conventional onsite sewage system installer. Each individual applying for an initial conventional onsite sewage system installer license shall pass a board-approved examination and shall meet one of the following requirements:

a. Two years experience obtained during the last four years under a sewage disposal system (SDS) contractor licensed by the Virginia Board for Contractors installing alternative onsite sewage systems or conventional onsite sewage; or

b. Certification by three authorized onsite soil evaluators (AOSE) or professional engineers that the applicant is competent to install conventional onsite sewage systems.

2. Alternative onsite sewage system installer. Each individual applying for an initial alternative onsite sewage system installer license shall pass a board-approved examination and shall meet one of the following requirements:

a. Provide contractor completion statements and associated operation permits issued by the VDH, which shall be certified by a licensed individual, for work performed after the effective date of this chapter. The statements and permits must verify that the applicant had successfully installed 36 onsite sewage systems during the preceding three years, six of which must be alternative systems, three of which must include absorption field designs other than a gravity subsurface drainfield; or

b. Provide contractor completion statements and associated operation permits issued by the VDH, which shall be certified by a licensed individual, for work performed before the effective date of this chapter verifying that the applicant successfully installed 12 alternative onsite sewage systems, six of which must include absorption field designs other than a gravity subsurface drainfield during the past three years.

If an individual is not listed on the completion statement but did perform the installation, then the individual named on the contractor's completion statement and associated operation permit issued by the VDH may certify an individual's work performed on an alternative onsite sewage system that was installed prior to the effective date of this chapter provided that the application is received by the department no later than 12 months after the effective date of this chapter.

18VAC160-20-98. Qualifications for licensure - onsite sewage system operators.

A. Each applicant shall make application in accordance with 18VAC160-20-76 and shall meet the specific entry requirements provided for in this section.

B. Specific entry requirements.

1. Conventional onsite sewage operator. Each individual applying for an initial conventional onsite sewage system operator license shall pass a board-approved examination and shall meet one of the following requirements:

a. Have no high school diploma, at least one year of full-time experience as a sewage handler, or one year of full-time experience working under the direct supervision of a licensed conventional onsite sewage system operator or of a licensed alternative onsite sewage system operator; or

b. Have a high school diploma or GED.

2. Alternative onsite sewage system operator. Each individual applying for an initial alternative onsite sewage system operator license shall possess a valid conventional onsite sewage system operator license, shall pass a board-approved examination, and shall meet one of the following requirements:

a. Have no high school diploma and 24 months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee;

b. Have a high school diploma or GED and 12 months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee; or

c. Possess a valid Class IV or higher wastewater works operator license and have satisfactorily completed an onsite sewage system operator course approved by the board or have six months of full-time experience working under the direct supervision of an alternative onsite sewage system operator licensee.

18VAC160-20-102. Fees.

A. All fees are shall be nonrefundable.

B. The date of receipt of the fee by the board or its agent is the date that shall be used to determine whether the fee is timely received.

C. The following fees shall apply:

1. The license application fee shall be \$100.

2. The license renewal fee shall be \$80.

3. The license renewal late penalty fee shall be \$25, in addition to the license renewal fee.

4. The fee for examination or reexamination is subject to charges to the department by an outside vendor based on a contract entered into in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with this contract.

~~D. A fee of \$25 will be charged, in addition to the fees established in this section, for submitting a check to the board which is dishonored by the institution upon which it is drawn.~~

18VAC160-20-104. Maintenance of license.

A. The licensee ~~or~~ provisional licensee, or interim licensee shall notify the board in writing within 30 days of any change of name or address.

B. All licensees ~~and~~ provisional licensees, and interim licensees shall operate under the name in which the license is issued.

Part III
Renewal

18VAC160-20-106. Renewal.

A. Licenses and provisional licenses for waterworks operators shall expire on the last day of February of each odd-numbered year. Licenses and provisional licenses for wastewater works operators shall expire on the last day of February of each even-numbered year. Licenses for onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators shall expire 24 months from the last day of the month wherein issued.

B. Interim licenses shall not be renewed.

~~B. C.~~ C. The Department of Professional and Occupational Regulation shall mail a renewal notice to the licensee and the provisional licensee outlining the procedures for renewal. Renewal notices shall be mailed to the licensee and to the provisional licensee at the last known address of record. Failure to receive written notice shall not relieve the licensee or the provisional licensee of the obligation to renew and pay the required fee outlined in 18VAC160-20-102.

~~C. D.~~ D. Each licensee and provisional licensee applying for renewal shall return the renewal notice; and fee, and, in the case of waterworks licensees and provisional licensees only, a statement that the applicant for license renewal has met the CPE requirement established in 18VAC160-20-109 prior to the expiration date shown on the license. If the licensee or provisional licensee fails to receive the renewal notice, a copy of the expired license or provisional license may be submitted in place of the renewal notice along with the required fee ~~and, in the case of waterworks licensees and provisional licensees only, a statement that the licensee or provisional licensee has met the CPE requirement in 18VAC160-20-109.~~

E. By submitting the renewal fee, an applicant for license renewal is certifying his continued compliance with this chapter and compliance with the continuing professional education requirements of this chapter.

~~D. E.~~ F. The date on which the renewal fee and any required forms are actually received by the board or its agent shall determine whether an additional fee is due.

~~E. G.~~ G. If the requirements of subsection ~~E D~~ of this section are met more than 30 days but less than 12 months after the expiration date on the license or provisional license, a late penalty fee shall be required as established in 18VAC160-20-102. The date on which the renewal application, any required documentation and the required fees are actually received by the board or its agent shall determine whether the licensee or provisional licensee is eligible for renewal and whether an additional fee is due.

~~F. H.~~ H. Any individual who fails to renew his license or provisional license within 12 months after the expiration date printed on the license or the provisional license, as appropriate, shall apply for a new license by examination or for a new provisional license in accordance with Part II (18VAC160-20-74 et seq.) of this chapter. Such individual shall be deemed to be eligible to sit for the examination for the same category and class of license as the expired license or provisional license.

~~G. I.~~ I. The board may deny renewal of a license or provisional license for the same reasons as it may refuse initial licensure or provisional licensure or discipline a licensee or provisional licensee.

18VAC160-20-109. ~~Waterworks operator continuing profession~~ Continuing professional education (CPE).

~~A. Each licensed and provisionally licensed waterworks operator licensee and provisional licensee shall have completed the following number of CPE contact hours required for his class of license during each renewal cycle:~~

1. Class I, II, and III waterworks operators shall obtain a minimum of 20 contact hours ~~during each license renewal cycle.~~
2. Class IV waterworks operators shall obtain a minimum of 16 contact hours ~~during each license renewal cycle.~~
3. Class V waterworks operators shall obtain a minimum of eight contact hours ~~during each license renewal cycle.~~
4. Class VI waterworks operators shall obtain a minimum of four contact hours ~~during each license renewal cycle.~~
5. Conventional onsite soil evaluators, conventional onsite sewage system installers, and conventional onsite sewage system operators shall obtain a minimum of 10 contact hours.

Regulations

6. Alternative onsite soil evaluators, alternative onsite sewage system installers, and alternative onsite sewage system operators shall obtain a minimum of 20 contact hours.

CPE provisions do not apply for the renewal of waterworks and wastewater works operator licenses or provisional licenses that were held for less than two years on the date of expiration.

B. The subject matter addressed during CPE contact hours shall be limited to the content areas covered by the board's examination appropriate to the license for which renewal is sought.

C. Any course approved by the board for substitution as training credits or formal education semester hours, as provided for in 18VAC160-20-160, shall also be acceptable on an hour-for-hour basis for CPE contact hours. One semester hour of college credit shall equal 15 CPE contact hours, and one quarter hour of college credit shall equal 10 CPE credit hours.

D. The following evidence shall be maintained to document completion of the hours of CPE specified in subsection A of this section:

1. Evidence of completion of a structured training activity which shall consist of the name, address and telephone number of the sponsor;
2. The dates the applicant participated in the training;
3. Descriptive material of the subject matter presented; and
4. A statement from the sponsor verifying the number of hours completed.

E. Each licensee and provisional licensee shall maintain evidence of the satisfactory completion of CPE for a period of at least one year following the end of the license renewal cycle for which the CPE was taken. Such documentation shall be in the form required by subsection D of this section and shall be provided to the board or its duly authorized agents upon request.

F. The licensee or provisional licensee shall not receive CPE credit for the same training course or structured training activity more than once during a single license renewal cycle to meet the CPE requirement unless the same training course or structured training activity is an annual requirement established by Virginia or federal regulations.

G. The licensee or provisional licensee may receive CPE credit for a training course or structured training activity which has been mandated by Virginia or federal regulation towards fulfilling the CPE requirement.

H. The licensee or provisional licensee may petition the board for additional time to meet the CPE requirement. However, CPE hours earned during a license renewal cycle to

satisfy the CPE requirement of the preceding license renewal cycle shall be valid only for that preceding license renewal cycle.

Part V Standards of Practice

18VAC160-20-140. Discipline.

The board has the power to discipline and fine any licensee, interim licensee, or provisional licensee and to suspend or revoke or refuse to renew or reinstate any license, interim licensee, or provisional license as well as the power to deny any application for a license, interim licensee, or provisional license under the provisions of Chapter 23 (§ 54.1-2300 et seq.) of Title 54.1 of the Code of Virginia and this chapter for any of the following:

1. Obtaining or renewing a license, interim licensee, or provisional license through fraudulent means or misrepresentation;
2. Having been convicted or found guilty by a court in any jurisdiction of any felony or of any misdemeanor involving lying, cheating, or stealing; ~~or for activities carried out while engaged in waterworks or wastewater works activities;~~ related to the performance of the licensee's or interim licensee's duties, there being no appeal pending therefrom or the time for appeal having lapsed. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. A certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision shall be prima facie evidence of such conviction or discipline. The record of conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;
3. Not demonstrating reasonable care, judgment, or application of the required knowledge, skill and ability in the performance of the ~~operating~~ licensee's or interim licensee's duties;
4. Violating or inducing another person to violate any provisions of Chapter 1, 2, 3 or 23 of Title 54.1 of the Code of Virginia, or of any provision of this chapter;
5. Having been found guilty by the board, an administrative body or by a court of any activity ~~in the course of performing his operating duties~~ related to the performance of the licensee's or interim licensee's duties that resulted in the harm or the threat of harm to human health or the environment;
6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony which resulted in the harm or the threat of harm to human health or the environment. Failing to inform the board in

writing within 30 days of pleading guilty or nolo contendere or being convicted of or found guilty, regardless of adjudication, of any felony or of any misdemeanor ~~for activities carried out while engaged in waterworks or wastewater works activities~~ related to the performance of the licensee's or interim licensee's duties or involving lying, cheating, or stealing; or

7. Negligence, or a continued pattern of incompetence, in the practice ~~as a waterworks or wastewater works operator of a licensee or interim licensee; or~~

8. Having undertaken to perform or performed a professional assignment that the licensee or interim licensee is not qualified to perform by education, experience, or both.

Part VI
Approval of Training

18VAC160-20-150. Approval of training.

A. ~~Waterworks and wastewater works operator training for all licenses~~ Training courses may be substituted for some of the experience required for Waterworks and Wastewater Works Class III, Class II, and Class I licenses; and for onsite soil evaluators, onsite sewage system installers, and onsite sewage system operators subject to the limitations in this section. Training courses that may be substituted for required experience must be approved by the board except those provided by federal or state agencies, institutions, schools and universities approved by the State Council of Higher Education for Virginia, for which continuing education units are awarded. Training courses requiring board approval shall be approved by the board prior to commencing in accordance with the following:

B. Training courses for which experience credit may be granted must be conducted in general conformance with the guidelines of the International Association for Continuing Education and Training (Association). The board reserves the right to waive any of the requirements of the association's guidelines on a case-by-case basis. Only classroom, laboratory and field trip contact time will be used to compute training credits. No credit will be given for breaks, meals, or receptions.

1. Organization. The board will only approve training offered by a sponsor who is an identifiable organization with a mission statement outlining its functions, structure, process and philosophy, and that has a staff of one or more persons with the authority to administer and coordinate a training credit (TC) program.

2. TC records. The board will only approve training offered by a sponsor who maintains TC records for all participants for a minimum of seven years, and who has a written policy on retention and release of TC records.

3. Instructors. The board will only approve training conducted by personnel who have demonstrated competence in the subject being taught, an understanding of the learning objective, a knowledge of the learning process to be used, and a proven ability to communicate.

4. Objectives. The board will only approve courses that have a series of stated objectives that are ~~consistent with the job requirements of waterworks and wastewater works operators~~ pertinent to the tasks performed by a licensee. The training course content must be consistent with those objectives.

5. Course completion requirements. For successful completion of a training course, participants must attend 90% or more of the class contact time and must demonstrate their learning through written examinations, completion of a project, self-assessment, oral examination, or other assessment technique.

C. The board shall consider the following information, to be submitted by the course sponsor or instructor on forms provided by the board, at least 45 days prior to the scheduled training course:

1. Course information.
 - a. Course title;
 - b. Planned audience;
 - c. Name of sponsor;
 - d. Name, address, phone number of contact person;
 - e. Scheduled presentation dates;
 - f. Detailed course schedule, hour-by-hour;
 - g. List of planned breaks;
 - h. Scheduled presentation location; and
 - i. Relevancy of course to ~~waterworks or wastewater works operator licensing licensure.~~
2. Instructor qualifications.
 - a. Name of instructor;
 - b. Title, employer; and
 - c. Summary of qualifications to teach this course.
3. Training materials.
 - a. Course objectives. A listing of the course objectives stated in terms of the skills, knowledge, or attitude the participant will be able to demonstrate as a result of the training.
 - b. Course outline. A detailed outline showing the planned activities that will occur during the training course, including major topics, planned presentation sequence,

Regulations

laboratory and field activities, audio-visual presentation, and other major activities.

c. Course reference materials. A list of the name, publisher and publication date for commercially available publications. For reference materials developed by the course sponsor or available exclusively through the course, a copy of the reference.

d. Audio-visual support materials. A listing of any commercially available audio-visual support material that will be used in the program. A brief description of any sponsor or instructor generated audio-visual material that will be used.

e. Handouts. Identification of all commercially available handout materials that will be used; as well as copies of all other planned handouts.

4. Determination of successful completion. A description of the means that will be used to assess the learning of each participant to determine successful completion of the training program, such as examinations, projects, personal evaluations by the instructor, or other recognized evaluation techniques.

D. Recurring training programs. If there are plans to present the same course of instruction routinely at multiple locations with only minor modifications and changes, the board may

approve the overall program rather than individual presentations if so requested by the sponsor.

1. The board shall consider all of the information listed above except those items related to specific offerings of the course.

2. Board approval may be granted for a specific period of time or for an indefinite period.

3. Board approval will apply only to those specific offerings certified by the sponsoring organization as having been conducted by instructors meeting the established criteria and in accordance with the board-approved course outlines and objectives.

4. To maintain approval of the program, changes made to the program since its approval must be submitted.

NOTICE: The forms used in administering the above regulation are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS (18VAC160-20)

Continuing Professional Education (CPE) Certificate of Completion, 19CPE (~~eff. 3/01~~) (rev. 12/08).

Application for Training Course Approval, 19CRS (rev. ~~7/01~~) 10/08.

Commonwealth of Virginia
 Department of Professional and Occupational Regulation
 Post Office Box 29570
 Richmond, Virginia 23242-0570
 (804) 367-2176



**Board for Waterworks and Wastewater Works Operators
 APPLICATION FOR TRAINING COURSE APPROVAL**

+ To obtain board approval of your waterworks and wastewater works operator specialized training course your application package must include the following documentation. See 18 VAC 160-20-150 for further details.

- Ψ Audio-visual support materials
- Ψ Course objectives
- Ψ Course outline (hour by hour detail including breaks)
- Ψ Course reference materials
- Ψ Handouts
- Ψ Instructor resume(s)
- Ψ Sponsor's mission statement & staff information
- Ψ Policy on retention & release of training course records

1. Name of Training Provider/Sponsor _____
2. Federal Employer Identification Number -
3. Street Address (PO Box not accepted) _____
 City, State, Zip Code _____
4. E-mail Address _____
5. Telephone & Facsimile Numbers
 () - Telephone () - Facsimile () - Beeper/Cellular
6. Name & Title of Contact Person _____
7. Course Title _____
8. Planned audience _____
9. Will this course be offered more than one time?
 No Scheduled course date
 Yes Scheduled course dates
10. Location(s) where course will be taught. _____
11. Instructor(s) information

Instructor's Name	Title	Employer	Phone Number
			() -
			() -
			() -

12. Describe the relevancy of the course to waterworks or wastewater works operator licensing.

13. How will satisfactory completion of this course be determined? Please check **all that apply**.
 Attendance
 Examination
 Site visits
 Skill demonstrations
 Other
14. Contact Person's Signature _____ Date _____

19CRS(10/21/08)

Board for Waterworks & Wastewater Works Operators/CRS APP

Continuing Professional Education (CPE) Certificate of Completion

Participant's Full Name

attended _____ Hours of continuing professional education (CPE) training conducted at _____ (location) on _____ (date).

Course Title _____

Description _____

Sponsor's/Sponsor's Agent Signature _____ Date _____

Sponsor/Sponsor's Agent Information (please print or type)

Sponsor's/Sponsor's Agent Name _____ Title _____

Organization/Company _____ Telephone _____ - -

Instructions

Sponsor/Sponsor's Agent (Instructor, Proctor or Coordinator)

Please provide the requested information by typing or printing in ink. Certificates completed in pencil will not be accepted.

Please provide all of the requested information. If the certificate is incomplete, the training may not be accepted as meeting the continuing professional education requirements of the Virginia Board for Waterworks and Wastewater Works Operators regulations.

Each certificate must contain an original sponsor/sponsor's agent signature and signature date.

To minimize the time/effort required to issue the certificates, training providers are encouraged to complete as much as possible of the other required information prior to conducting the training.

Participants

Make sure all of the required information is contained on the certificate and that the sponsor/sponsor's agent has signed and dated the certificate.

File the certificate in a safe place. It is your responsibility to retain this certificate for at least one year after the completion of the license renewal period in which the training is taken. You may be required to submit a copy of this certificate to verify you have completed the required number of hours of continuing professional education training.

AT RICHMOND, JANUARY 29, 2008

**TITLE 20. PUBLIC UTILITIES AND
TELECOMMUNICATIONS****STATE CORPORATION COMMISSION****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.

Titles of Regulations: **20VAC5-200. Public Utility Accounting (repealing 20VAC5-200-30).**

20VAC5-201. Rules Governing Utility Rate Increase Applications, Annual Informational Filings, Optional Performance-Based Regulation Applications, Biennial Review (adding 20VAC5-201-10 through 20VAC5-201-110).

20VAC5-403. Rules Governing Small Investor-Owned Telephone Utilities (amending 20VAC5-403-70).

Statutory Authority: §§ 12.1-13 and 56-585.1 of the Code of Virginia.

Effective Date: January 1, 2009.

Agency Contact: Kimberly B. Pate, Audits Manager, Public Utility Accounting Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9961, FAX (804) 371-9447, or email kim.pate@scc.virginia.gov.

Summary:

Based primarily on legislative changes contained in Chapter 933 of the 2007 Acts of Assembly, the commission has repealed its existing Rate Case Rules in 20VAC5-200-30, and promulgated revised Rate Case Rules in a new Chapter 201 in Title 20 of the Virginia Administrative Code, consisting of 20VAC5-201-10 through 20VAC5-201-110. These final rules adopted by the commission include the following: (i) new general filing requirements; (ii) requirements for optional performance-based rate regulation, biennial reviews and rate adjustment clauses; and (iii) refinement of general and expedited rate case requirements, annual informational filing requirements, temporary increase requirements and fuel factor requirements. Modifications to the initial, proposed rules now included in the final rules consist primarily of (i) technical changes and corrections, e.g., amendments to cross-references, etc., and (ii) minor changes to certain rules that did not modify their overall substance.

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUE-2008-00001

Ex Parte: In the matter of revising the rules of the State Corporation Commission governing utility rate increase applications pursuant to Chapter 933 of the 2007 Acts of Assembly

ORDER ADOPTING REGULATIONS

On January 29, 2008, the State Corporation Commission ("Commission") entered an Order for Notice and Comment in this docket ("Order") establishing a proceeding to revise the Commission's Rules Governing Utility Rate Applications and Annual Informational Filings, ("Rate Case Rules").¹ Draft revisions to the Rate Case Rules ("Proposed Rules") prepared by the Commission Staff ("Staff") were appended to the Order.

The Order permitted interested persons to submit on or before April 14, 2008 (i) comments concerning the Proposed Rules; (ii) notices of participation under our rules (for those intending to participate in this proceeding as respondents); and (iii) requests, by respondents, for oral argument concerning the draft rules. The Order further required the Staff to file on or before May 9, 2008, a report with the Clerk of the Commission concerning the comments submitted to the Commission ("Staff Report").

Comments concerning the Proposed Rules were timely received from (i) the Virginia Electric and Power Company d/b/a Dominion Virginia Power ("DVP"); (ii) Appalachian Power Company ("Appalachian"); (iii) the Potomac Edison Company d/b/a Allegheny Power ("Allegheny"); (iv) Kentucky Utilities d/b/a Old Dominion Power Company; (v) Columbia Gas of Virginia; Roanoke Gas Company; Virginia Natural Gas; Washington Gas Light Company; Aqua Virginia, Inc.; Massanutten Public Service Company; Virginia American Water Company; Atmos Energy Corporation ("Joint Respondents");² (vi) the Office of the Attorney General, Division of Consumer Counsel ("Consumer Counsel"); and (vii) the Virginia Committee for Fair Utility Rates and the Old Dominion Committee for Fair Utility Rates (filing jointly, hereafter "the Committees").

Thereafter, on May 1, 2008, the Commission, on Staff's motion, entered an Order extending the filing deadline for the Staff Report in this docket from May 9, 2008, to July 15, 2008. Additionally, such Order permitted interested parties and respondents that filed initial comments in this proceeding on or before April 14, 2008, an opportunity to file comments on or before August 15, 2008, replying to the Staff's Report,

Regulations

and, if desired, to the initial comments of any other interested party or respondent. Finally, the Commission's May 1, 2008 Order scheduled oral argument in this docket on September 16, 2008, in response to requests therefor from participants in this proceeding.

The Staff filed its Staff Report in this docket on July 15, 2008. Thereafter, reply comments in response to the Staff Report or in response to the initial comments of other participants in this docket were timely filed by all participants who filed initial comments.

On September 16, 2008, the Commission received oral argument on the proposed rules.³ The Commission's Staff and the following parties participated: DVP, Appalachian, Allegheny, Joint Respondents, Consumer Counsel, and the Committees. At the conclusion of the oral argument, the Commission established a 30-day interval in which the parties were permitted to submit additional information to the Commission concerning any consensus reached among the parties regarding any issue then remaining in contention. On October 20, 2008, DVP filed additional comments.

NOW UPON CONSIDERATION of the comments filed herein together with the representations and advisements of counsel at the oral argument, we find that we should adopt the rules appended hereto as Attachment A, effective January 1, 2009.

The regulations we adopt herein contain a number of modifications to those that were first proposed by the Commission Staff and published in the Virginia Register on February 18, 2008. These modifications follow our consideration of further proposed changes made to those rules by the Staff prior to (and contemporaneous with) the September 16, 2008, hearing in this docket, other changes suggested by the parties at the hearing, and our analysis of the entire record in this proceeding. We will not comment on each rule in detail, but we will comment on several of them.

First, we note that DVP and others suggested that the "60 day prior notice" requirement expressed in 20 VAC 5-201-10 A could practically impede utilities' ability to obtain rate relief on January 1, 2009—the day following the expiration of capped electric rates and the first date on which many of the ratemaking provisions in § 56-585.1 of the Code of Virginia ("Code") (in the case of investor-owned electric utilities) become available. While we will retain the 60 day notice requirement in this rule, we emphasize that 20 VAC 5-201-10 E permits the Commission to grant waivers of these rules for good cause shown. However, the Commission would urge those intending to seek such waivers to request them as soon as possible. Further, prior to the implementation of these rules, rate case applicants should provide notice of intent to file such applications in a timely manner.

Second, we address an issue given much consideration in the parties' comments and at the hearing, namely the provisions of draft rule 20 VAC 5-201-10 C. This provision has antecedents in our current rules, and operates to preclude parties from raising in the context of earnings test filings made pursuant to these rules, issues previously decided by Commission Order in an applicant's most recent rate case. While we note that (i) Staff reiterated its technical concerns about including a provision directed at potential, future case *participants* in rules governing rate case *applicants*, and (ii) the Committees' more general opposition to the presence of a rule effecting issue preclusion, we will retain this provision in the rules we adopt herein. However, as suggested by the Joint Respondents, we have modified this provision to clarify that it is applicable to the earnings test components of general and expedited rate cases.

Third, we consider the requirement expressed in 20 VAC 5-201-10 D that applications filed pursuant to these rules shall not be deemed filed under Chapters 10 or 23 of Title 56 of the Code "unless they are in full compliance with these rules." AEP and Allegheny raised concerns about the "full compliance" requirement on the basis that delay in processing rate applications could result from the operation of this language. Indeed, both parties suggested that the Commission establish a "substantial" or "material" compliance threshold. However, the rules we adopt herein retain the "full compliance" language because it is the standard contained in our current rate case rules and we are not aware of any practical difficulties resulting from its incorporation into those rules in 1999. We conclude, therefore, that the Staff's issuances of memoranda of completeness in these cases as required by Rule 160 of the Commission's Rules of Practice and Procedure (5 VAC 5-20-160) has, to date, been accomplished with dispatch and reasonableness. We would expect such practice to continue hereafter, and so the rules we adopt herein will retain the "full compliance" requirement expressed in 20 VAC 5-201-10 D.

Fourth, Consumer Counsel requested that rule 20 VAC 5-201-10 F be modified to provide to Consumer Counsel immediate access to information deemed to be confidential by the applicant. We adopt the rule as proposed; however, we encourage applicants and parties to utilize, to the fullest extent possible, protective orders which should operate to provide confidential information to rate case participants in a timely manner.

Fifth, the parties, Staff and the Commission discussed at the oral argument the requirement in 20 VAC 5-201-10 H of the draft rules that applicants furnish certain schedules in Microsoft Excel format. While all acknowledged that Excel is currently an industry standard for electronic spreadsheets, such standards change over time—sometimes quickly—and thus specifying a proprietary product in our rules may not be appropriate. Consequently, we have modified this rule to

simply provide that the electronic spreadsheet format utilized by applicants be "commercially available and have common use in the utility industry."

Sixth, the Joint Respondents proposed to delete the word "historic" from 20 VAC 5-201-20 B. We will retain such term in this rule. The use of a historic test year provides basic information concerning an applicant's cost of service which can be adjusted based on projections as allowed per § 56-235.2 of the Code.

Seventh, the Joint Respondents expressed objections in both filed comments, and at the oral argument to the provisions of 20 VAC 5-201-40 A, requiring that all rate schedules be filed by applicants seeking the Commission's approval of a Performance Based Regulation ("PBR") plan pursuant to these rules. As the basis for their objection, they assert that the provisions of § 56-235.6 A of the Code authorizing PBRs expressly contemplate a departure from cost-of-service ratemaking, and thus requiring PBR applicants to file cost of service-related schedules is inconsistent with this statute. Joint Respondents also emphasized that § 56-235.6 B of the Code establishes a "not excessive" benchmark for PBR rates, versus the conventional "just and reasonable" standard associated with conventional cost of service ratemaking under § 56-235.2 of the Code. We have determined, however, that the filing requirements expressed in 20 VAC 5-201-40 A will be retained in the rules we adopt in this proceeding. As noted by the Staff in its comments and at the hearing, the provisions of § 56-235.6 C (iv) of the Code authorize the Commission to discontinue a PBR if rates are determined to be excessive when compared to cost of service and any benefits that accrue from the PBR. Thus, all schedules must be filed with an applicant's proposed PBR to determine, and thus benchmark, the applicant's cost of service in order to enable the Commission to make a fully informed decision regarding whether rates under the proposed PBR are excessive and to execute the provisions of § 56-235.6 C (iv) of the Code, if necessary.

Eighth, with respect to the "off-year" filing requirement provided in Subsection C of draft rule 20 VAC 5-201-50, we have determined that this requirement is unnecessary, and have eliminated this Subsection. The Commission and its Staff are authorized by § 56-36 of the Code to obtain all of the information by means of that statutory authority, and it is because of that specific statutory authority that Subsection C is deemed unnecessary at this time. We expect that all utilities will respond to Staff's request for information in a timely manner.

Ninth, 20 VAC 5-201-90⁴ identifies certain schedules and exhibits required in conjunction with filings made pursuant to these rules, and provides instructions for their preparation. The instructions for Schedule 29, provided in this rule, as proposed by the Staff, requires applicants to furnish certain work papers for earnings test and ratemaking adjustments.

Allegheny and the Joint Respondents expressed concern that the requirement in draft paragraph (a) of the instructions for Schedule 29 that applicants provide information concerning "relative FASB statements[s] and Commission precedent[s]" for certain adjustments imposed a burdensome requirement. We have modified such paragraph (a) to require that the purpose of and methodology used for each such adjustment be furnished in narrative form, and that relevant FASB statements and Commission precedents be referenced "if known or available." This change should permit the Staff and parties to obtain the information they need relative to these adjustments while easing concerns utilities may have regarding the burden of furnishing such information.

Tenth, the Joint Respondents proposed a threshold for the expense analysis required in the instructions for Schedule 30. We adopt the proposed rule as modified by Staff at the oral argument noting that while the requirement may entail or necessitate analysis of lesser dollar items for smaller utilities, such smaller dollar items are equally material to the operating and maintenance expenses used to determine cost of service.

Finally, we note two miscellaneous changes to the draft rules. With respect to draft Schedule 46 in the Proposed Rules, we have determined that this requirement has limited future use and have eliminated it from the Proposed Rules. However, any applicant filing for a rate adjustment clause pursuant to § 56-582 B (vi) or § 56-585.1 A 5 a of the Code shall provide all significant documents, contracts, studies, investigations or correspondence that support actual costs for each rate adjustment for which the applicant is seeking initial approval. Such information should demonstrate that the costs are incremental and not reflected in previously approved rates.

Additionally, we have eliminated language in paragraph (b) (first reference) in the instructions for draft Schedule 47 in the Proposed Rules (now Schedule 46) that had required in conjunction with rate adjustment clause filings made pursuant to § 56-585.1 A 6 of the Code, a statement demonstrating that a proposed generating unit is consistent with a least cost integrated resource plan. We have determined that such a statement is not necessary for purposes of these rules.

Accordingly, IT IS ORDERED THAT:

- (1) We hereby repeal 5 VAC 5-200-30 and adopt the Rules Governing Utility Rate Applications and Annual Informational Filings to be set forth in a new Chapter 201 (20 VAC 5-201-10 *et seq.*) in Title 20 of the Virginia Administrative Code, appended hereto as Attachment A, all to become effective on January 1, 2009.
- (2) A copy of this Order and the rules adopted herein shall be forwarded promptly for publication in the Virginia Register of Regulations.

Regulations

(3) This case is dismissed and the papers herein shall be placed in the filed for ended causes.

Commissioner Dimitri did not participate in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219.

¹ In adopting the rules proposed in this proceeding, we repeal former 20 VAC 5-200-30, and establish a new Chapter 201 (20 VAC 5-201-10, et seq.) in Title 20 of the Virginia Administrative Code.

² Columbia Gas of Virginia, Roanoke Gas Company, Virginia Natural Gas, Washington Gas Light Company, Aqua Virginia, Inc., Massanutten Public Service Company; and Virginia American Water Company submitted joint comments. Atmos Energy initially filed a timely notice of participation without comments, and subsequently joined in the reply comments filed by the Joint Respondents on August 14, 2008.

³ With respect to our September 16, 2008, oral argument in this matter, we note that such argument was focused on several issues concerning which a clear consensus had not emerged among the Staff and various parties. We emphasize, however, that the fact that a particular issue was not addressed or discussed at the hearing does not lessen the extent to which we have considered it. The Commission has carefully considered all the comments filed herein.

⁴ 20 VAC 5-201-90 was previously identified as 20 VAC 5-201-100 in the proposed Rules. This section and subsequent sections were renumbered in the final version of the Rules we adopt herein.

20VAC5-200-30. Rules governing utility rate increase applications and annual informational filings. (Repealed.)

CHAPTER 201

RULES GOVERNING UTILITY RATE APPLICATIONS AND ANNUAL INFORMATIONAL FILINGS

20VAC5-201-10. General filing instructions.

A. An applicant shall provide a notice of intent to file an application pursuant to 20VAC5-201-20, 20VAC5-201-40 [, 20VAC5-201-60] and [~~20VAC5-201-70~~ 20VAC5-201-85] to the commission 60 days prior to the application filing date.

B. Applications pursuant to 20VAC5-201-20 through 20VAC5-201-70 shall include:

1. The name and post office address of the applicant and the name and post office address of its counsel.
2. A full clear statement of the facts that the applicant is prepared to prove by competent evidence.
3. A statement of details of the objective or objectives sought and the legal basis therefore.
4. All direct testimony by which the applicant expects to support the objective or objectives sought.

5. Information or documentation conforming to the following general instructions:

a. Attach a table of contents of the company's application, including exhibits.

b. Each exhibit shall be labeled with the name of the applicant and the initials of the sponsoring witness in the upper right hand corner as shown below:

Exhibit No. (Leave Blank)

Witness: (Initials)

Statement or

Schedule Number

c. The first page of all exhibits shall contain a caption that describes the subject matter of the exhibit.

d. If the accounting and statistical data submitted differ from the books of the applicant, then the applicant shall include in its filing a reconciliation schedule for each account or subaccount that differs, together with an explanation describing the nature of the difference.

e. The required accounting and statistical data shall include all work papers and other information necessary to ensure that the items, statements and schedules are not misleading.

C. These rules do not limit the commission staff or parties from raising issues for commission consideration that have not been addressed in the applicant's filing before the commission. [Except for good cause shown, issues specifically decided by commission order entered in the applicant's most recent rate case may not be raised by staff or interested parties in Earnings Test Filings made pursuant to 20VAC5-201-10, 20VAC5-201-30 or 20VAC5-201-50.]

D. An application [filed pursuant to 20VAC5-201-20, 20VAC5-201-30, 20VAC5-201-40, 20VAC5-201-60, 20VAC5-201-70, 20VAC5-201-80 or 20VAC5-201-85] shall not be deemed filed per Chapter 10 (§ 56-232 et seq.) or Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia unless it is in full compliance with these rules.

E. The commission may waive any or all parts of these rate case rules for good cause shown.

F. Where a filing contains information that the applicant claims to be confidential, the filing may be made under seal provided it is [simultaneously] accompanied by both a motion for protective order or other confidential treatment and an additional five copies of a redacted version of the filing to be available for public disclosure. Unredacted filings containing the confidential information shall, however, be immediately available to the commission staff for internal use at the commission.

G. Filings containing confidential (or redacted) information shall so state on the cover of the filing, and the precise portions of the filing containing such confidential (or

redacted) information, including supporting material, shall be clearly marked within the filing.

H. Applicants shall file [~~a disk~~ electronic media] containing [~~a Microsoft Excel~~ an electronic spreadsheet] version of Schedules 1-5, 8-28, 36, 40, and [~~50~~ 49], as applicable, with the Division of Public Utility Accounting, the Division of Economics and Finance and the Division of Energy Regulation or the Division of Communications, as appropriate. [Such electronic media containing calculations derived from formulas shall be provided in an electronic spreadsheet including all underlying formulas and assumptions. Such electronic spreadsheet shall be commercially available and have common use in the utility industry.] Additional [~~Excel~~] versions of such schedules shall be made available to parties upon request.

I. All applications, including direct testimony and Schedules 1-28, 30-39 and [~~41~~ [~~50~~ 41-49]], as applicable, shall be filed in an original and 12 copies with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. One copy of Schedules 29 and 40 shall be filed with the Clerk of the Commission. [Applicants may omit filing Schedule 29 with the Clerk of the Commission in Annual Informational Filings. Additional copies of such schedules shall be made available to parties upon request.]

Two copies of Schedules 29 and 40 shall be submitted to the Division of Public Utility Accounting or the Division of Communications, as appropriate. Two copies of Schedule 40 shall be submitted to the Division of Energy Regulation.

J. For any application made pursuant to 20VAC5-201-20 and 20VAC5-201-40 through [~~20VAC5-201-70~~ 20VAC5-201-85], the applicant shall serve a copy of the information required in 20VAC5-201-10 A and B 1 through B 3, upon the [~~Commonwealth's~~] attorney and chairman of the board of supervisors of each county (or equivalent officials in the counties having alternate forms of government) in this Commonwealth affected by the proposed increase and upon the mayor or manager and the attorney of every city and town (or equivalent officials in towns and cities having alternate forms of government) in this Commonwealth affected by the proposed increase. The applicant shall also serve each such official with a statement that a copy of the complete application may be obtained at no cost by making a request therefor orally or in writing to a specified company official or location. In addition, the applicant shall serve a copy of its complete application upon the Division of Consumer Counsel of the Office of the Attorney General of Virginia. All such service specified by this rule shall be made either by (i) personal delivery or (ii) first class mail, to the customary place of business or to the residence of the person served.

[K. Nothing in these rules shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.]

20VAC5-201-20. General and expedited rate increase applications.

A. An application for a general or expedited rate increase pursuant to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia for a public utility having annual revenues exceeding \$1 million, shall conform to the following requirements:

1. Exhibits consisting of Schedules [~~1 through 44~~ 1-43] and the utility's direct testimony shall be submitted. Such schedules shall be identified with the appropriate schedule number and shall be prepared in accordance with the instructions contained in 20VAC5-201-90.

2. An applicant subject to § 56-585.1 of the Code of Virginia shall file Schedules [~~46~~ 45] and [~~49~~ 47] in addition to the schedules required in 20VAC5-201-20 A 1 in accordance with the instructions accompanying such schedules in 20VAC5-201-90.

3. An exhibit consisting of additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule [~~50~~ 49] (this exhibit may include numerous [~~sub-schedules~~ subschedules] labeled [~~50A~~ 49A] et seq.).

B. The selection of a historic test period is up to the applicant. However, the use of overlapping test periods will not be allowed.

[C. Applicants meeting each of the four following criteria may omit Schedules 9-18 in rate applications: (i) the applicant is not subject to § 56-585.1 of the Code of Virginia, (ii) the applicant is not currently bound by a performance-based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia that includes an earnings sharing mechanism or other attribute for which the commission has directed the performance of an Earnings Test, (iii) the applicant has no Virginia jurisdictional regulatory assets on its books, and (iv) the applicant is not seeking to establish a regulatory asset.]

[~~C. D.~~] If not otherwise constrained by law or regulatory requirements, an applicant who has not experienced a substantial change in circumstances may file an expedited rate application as an alternative to a general rate application. Such application need not propose an increase in regulated operating revenues. If, upon timely consideration of the expedited application and supporting evidence, it appears that a substantial change in circumstances has taken place since the applicant's last rate case, then the commission may take appropriate action, such as directing that the expedited application be dismissed or treated as a general rate application. Prior to public hearing, and subject to applicable

Regulations

provisions of law, an application for expedited rate increase may take effect within 30 days after the date the application is filed. Expedited rate increases may also take effect in less than 12 months after the applicant's preceding rate increase so long as rates are not increased as a result thereof more than once in any calendar year. An applicant making an expedited application shall also comply with the following rules:

1. In computing its cost of capital, as prescribed in Schedule 3 in 20VAC5-201-90, the applicant, other than those utilities subject to § 56-585.1 of the Code of Virginia, shall use the equity return rate approved by the commission and used to determine the revenue [requirements requirement] in the utility's most recent rate proceeding.

2. An applicant, in developing its rate of return statement, shall make adjustments to its test period jurisdictional results only in accordance with the instructions [accompanying for] Schedule 25 in 20VAC5-201-90.

3. The applicant may propose new allocation methodologies, rate designs and new or revised terms and conditions provided such proposals are supported by appropriate cost studies. Such support shall be included in Schedule 40.

[D. E.] Rates authorized to take effect 30 days following the filing of any application for an expedited rate increase shall be subject to refund in a manner prescribed by the commission. Whenever rates are subject to refund, the commission may also direct that such refund bear interest at a rate set by the commission.

20VAC5-201-30. Annual informational filings.

Unless modified per a commission-approved alternative regulatory plan, each utility not subject to § 56-585.1 of the Code of Virginia, and which is not requesting a base rate increase shall make an annual informational filing consisting of Schedules 1-7, 9, 11-12, 14-19, 21-22, 24-25, [27-34 27, 28], [34-36, 38- and] 40 [and 44 a and b] as identified in 20VAC5-201-90. The test period shall be the current 12 months ending in the same month used in the utility's most recent rate application. This information shall be filed with the commission within 120 days after the end of the test period. Accounting adjustments reflected in Column (2) of Schedule 21 shall incorporate the ratemaking treatment approved by the commission in the utility's last rate case and shall be calculated in accordance with the Expedited Rules of Schedule 25. Requirements found in 20VAC5-201-10 B 2 through [B] 4 may be omitted in Annual Informational Filings.

[Applicants meeting each of the four following criteria may omit Schedules 9-18 in Annual Informational Filings: (i) the applicant is not subject to § 56-585.1 of the Code of Virginia, (ii) the applicant is not currently bound by a performance-based regulation plan authorized by the commission pursuant

to § 56-235.6 of the Code of Virginia that includes an earnings sharing mechanism or other attribute for which the commission has directed the performance of an Earnings Test, (iii) the applicant has no Virginia jurisdictional regulatory assets on its books, and (iv) the applicant is not seeking to establish a regulatory asset.]

20VAC5-201-40. Optional performance-based [regulations regulation] applications.

A. An applicant, other than those subject to § 56-585.1 of the Code of Virginia, that] files an application for performance-based regulation pursuant to [§ 56-585.1 § 56-235.6] of the Code of Virginia shall file Schedules 1-32 and 34-43 as identified in 20VAC5-201-90.

B. An applicant subject to § 56-585.1 [of the Code of Virginia] that files a performance-based regulation filing pursuant to § 56-235.6 [of the Code of Virginia] shall file Schedules [1-46 1-45] and [49 47] as identified in 20VAC5-201-90.

20VAC5-201-50. Biennial review applications.

A. A biennial review application filed pursuant to § 56-585.1 of the Code of Virginia shall include the following:

1. Exhibits consisting of Schedules 3, 6-7, 9-18, 40a and 44 [-45] as identified in 20VAC5-201-90 shall be submitted with the utility's direct testimony for [each of the] two successive 12-month test periods.

2. Exhibits consisting of Schedules 1-2, 4-5, 8, [19-39 19-34, 36-39], 40b-d, 41-43, [46 45] , and [49 47] as identified in 20VAC5-201-90, shall be submitted with the utility's direct testimony for the second of the two successive 12-month test periods.

3. An exhibit consisting of [Schedule 35 shall be filed with the commission no later than April 30 each year.

4. An exhibit consisting of] additional schedules may be submitted with the utility's direct testimony. Such exhibit shall be identified as Schedule [50 49] (this exhibit may include [numerous sub-schedules subschedules as needed] labeled [50A 49A] et seq.).

[4. 5.] A reconciliation of Schedules 19 and 22 to the statement of income and comparative balance sheet contained in FERC Form No. 1.

B. The assumed rate year for purposes of determining ratemaking adjustment in Schedules 21 and 24, as identified in 20VAC5-201-90, shall begin on December 1 of the year following the two successive 12-month test periods.

[C. For purposes of attaining timelines established for biennial reviews in § 56-585.1 A 8 of the Code of Virginia, by March 31 of each year that a biennial review is not filed pursuant to § 56-585.1 of the Code of Virginia, each investor-owned electric utility subject to § 56-585.1 of the Code of

~~Virginia shall submit two copies of Schedules 9-25, 27-29, 40, and 44-45 for the previous 12-month test period with the commission's Division of Public Utility Accounting, the Division of Economics and Finance and the Division of Energy Regulation. These schedules do not constitute an Annual Informational Filing and will not result in any findings or conclusions outside the context of legislated biennial reviews.]~~

20VAC5-201-60. Rate adjustment clause filings.

~~An application filed pursuant to [§ 56-582 or] § 56-585.1 A 4, 5 or 6 of the Code of Virginia shall include Schedules [46-48 45 and 46] as identified and described in 20VAC5-201-90, and [that which] shall be submitted with the utility's direct testimony.~~

20VAC5-201-70. Temporary increases of rates.

~~A. Applicants that file a request for a temporary increase in rates pursuant to § 56-245 of the Code [of Virginia] shall include Schedules [1-43 1-7, 9, 11-12, 14 and 16-18] as identified and described in 20VAC5-201-90.~~

~~B. Applicants subject to § 56-585.1 of the Code of Virginia that file a request for a temporary increase in rates pursuant to § 56-245 [of the Code of Virginia] shall file Schedules [44-46 44, 45] and [49 47] as identified and described in 20VAC5-201-90 in addition to the schedules required in subsection A of this section.~~

~~[C. Nothing in these rules shall be interpreted to apply to applications for temporary reductions of rates pursuant to § 56-242 of the Code of Virginia.]~~

20VAC5-201-80. Fuel factor filings.

~~A. In the event that an electric utility files an application to [increase change] the fuel factor, fuel factor projections shall be filed [at least] six weeks prior to the proposed effective date. The filing shall include projections required by the commission's Fuel Monitoring System as well as the testimony and exhibits supporting the fuel factor projections. [At a minimum, the filing shall include the following for each month of the forecast period in which the proposed fuel factor is expected to be in effect:~~

- ~~1. Projections of system sales and energy supply requirements (MWh).~~
- ~~2. Projections of generation and purchased power levels (MWh) by source.~~
- ~~3. Projections of fuel requirements by generating unit (MMBtu).~~
- ~~4. Projections of fuel and purchased power costs by source.~~
- ~~5. Projections of off-system sales volumes and margins.~~
- ~~6. Projections of generating unit outage rates and heat rates, and~~

7. Total fuel factor costs by source by month.

The filing shall further include the following information for each month for the most recent historical 12-month period:

1. Actual system sales and energy supply (MWh).
2. Actual generation and purchased power levels (MWh) by source.
3. Actual fuel burns by generating units (MMBtu).
4. Actual fuel and purchased power costs by source.
5. Actual off-system sales volumes and margins along with support for calculation of margins.
6. Actual generating unit planned and forced outage rates and heat rates along with brief descriptions and durations of outages, and
7. Discussion of any abnormal operating events and actions taken to minimize fuel and purchased energy costs.]

~~B. Electric utilities not seeking a change in the fuel factor shall file fuel factor projections at least six weeks prior to the expiration of the last projection or as required by the commission. [The filing shall include the same information required in subsection A of this section.]~~

[20VAC5-201-85. Conservation and ratemaking efficiency plans.

~~An applicant that files a conservation and ratemaking efficiency plan pursuant to Chapter 25 (§ 56-600 et seq.) of Title 56 of the Code of Virginia shall file Schedule 48 as identified and described in 20VAC5-201-90, and which shall be submitted with the utility's direct testimony.]~~

20VAC5-201-90. [Schedules Instructions for schedules] and exhibits for Chapter 201.

~~The following [instructions for] schedules [and exhibits including those specifically set forth in 20VAC5-201-95 (Schedules 1-14), 20VAC5-201-100 (Schedules 15-22) and 20VAC5-201-110 (Schedules 23-28, 40 and 44)] are to be used in conjunction with this chapter:~~

Schedule 1 - Historic Profitability and Market Data

~~Instructions: Using the format of the attached schedule and the definitions provided below, provide the data for the test year and four prior fiscal years. The information shall be compatible with the latest stockholder's annual report (including any restatements). Information in Sections A and B shall be compiled for the corporate entity that raises equity capital in the marketplace. Information in Section C shall be compiled for the subsidiary company that provides regulated utility service in Virginia.~~

Definitions for Schedule 1

Regulations

$$\frac{\text{Return on Year End Equity}^*}{\text{Equity}^*} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Year End Common Equity}}$$

$$\frac{\text{Return on Average Equity}^*}{\text{Equity}^*} = \frac{\text{Earnings Available for Common Shareholders}}{\text{The Average of Year End Equity for the Current \& Previous Year}}$$

$$\text{Earnings Per Share} = \frac{\text{Earnings Available for Common Shareholders}}{\text{Average No. Common Shares Outstanding}}$$

Dividends Per Share = Common Dividends Paid per Share During the Year

Payout Ratio = DPS/EPS

Average Market Price** = (Yearly High + Yearly Low Price)/2

Dividend Yield = DPS/ Average Market Price**

Price Earnings Ratio = Average Market Price**/EPS

*Job Development Credits shall not be included as part of equity capital nor shall a deduction be made from earnings for a capital charge on these Job Development Credits in Schedule 1.

**An average based on monthly highs and lows is also acceptable. If this alternative is chosen, provide monthly market prices and sufficient data to show how the calculation was made.

Schedule 2 - Interest and Cash Flow Coverage Data

Instructions: This schedule shall be prepared using the definitions and instructions given below and presented in the format of the attached schedule. The information shall be provided for the test year and the four prior fiscal years based on information for the Applicant and for the consolidated company if Applicant is a subsidiary.

- Interest (Lines 3, 4, & 5) shall include amortization of expenses, discounts, and premiums on debt without deducting an allowance for borrowed funds used during construction.

- Income taxes (Line 2) shall include federal and state income taxes.

- Allowance for Funds Used During Construction ("AFUDC") (Line 8), where applicable, is total AFUDC -- for borrowed and other funds.

- Preferred dividends (Line 13) for a subsidiary may need to be allocated from the parent's total preferred dividends. Specify the allocation factor and the methodology used in a footnote.

- Construction expenditures (Line 15) are net of AFUDC.

- Common dividends (Line 16) for a subsidiary shall be stated per books. If the subsidiary's dividend payout ratio differs from the consolidated company's payout ratio, show in a footnote the subsidiary's common dividends based on the consolidated company's payout ratio.

Schedule 3 - Capital Structure and Cost of Capital Statement – Per Books and Average

Instructions: This schedule shall show the amount of each capital component per balance sheet, the amount for ratemaking purposes, the percentage weight in the capital structure, the component cost and weighted cost, using the format in the attached schedule. The information shall be provided for the test period, the four prior fiscal years, and on a 13-month average or five-quarter average basis for the test period. The data shall be provided for the entity whose capital structure was approved for use in the applicant's last rate case.

In Part A, the information shall be compatible with the latest Stockholders' Annual Report (including any restatements). In Parts B, C, and D [] the methodology shall be consistent with that approved in the applicant's last rate case. Reconcile differences between Parts A and B for both end-of-test-period and average capital structures.

The amounts for short-term debt and revolving credit agreements (and similar arrangements) in Part B shall be based where possible on a daily average over the test year, or alternatively on a 13-month average over the test year. Except for the Part B amount for short-term debt and average amounts in Column (6), all other accounts are end-of-year and end-of-test period.

The component weighted cost rates equal the product of each component's capital structure weight for ratemaking purposes times its cost rate. The weighted cost of capital is equal to the sum of the component weighted cost rates. The Job Development Credits cost is equal to the weighted cost of permanent capital (long-term debt, preferred stock, and common equity).

For investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia, Parts A, B, C, and D shall be based on the utility's actual, end-of-period capital structure.

Schedule 4 - Schedules of Long-Term Debt, Preferred and Preference Stock, Job Development Credits, and Any Other Component of Ratemaking Capital

Instructions: For each applicable capital component, provide a schedule that shows, for each issue, the amount outstanding, its percentage of the total capital component, and effective cost based on the embedded cost rate. This data shall support the amount and cost rate of the respective capital components contained in Schedule 3, consistent with the methodology approved in applicant's last rate case. In addition, a detailed breakdown of all job development credits should be provided that reconciles to the per books balance of investment tax credits. These schedules should reflect disclosure of any associated hedging/derivative instruments, their respective terms and conditions (instrument type, notional amount and associated series of debt or preferred stock hedged, period in effect, etc.), and the impact of such instruments on the cost of debt or preferred stock.

Schedule 5 - Schedule of Short-Term Debt, Revolving Credit Agreements, and similar Short-Term Financing Arrangements

Instructions: Utilities that are not subject to § 56-585.1 of the Code of Virginia shall provide data and explain the methodology, which should be consistent with the methodology approved in the applicant's last rate case, used to calculate the cost and balance contained in Schedule 3 for short-term debt, revolving credit agreements, and similar arrangements.

Investor-owned electric utilities subject to § 56-585.1 [~~of the Code of Virginia~~] shall file data consistent with the utility's end of test period capital structure and cost of short-term debt.

This schedule should also provide detailed disclosure of any hedging/derivative instruments related to short-term debt, their respective terms and conditions (instrument type, notional amount and associated series of debt hedged, period in effect, etc.), and the impact of such instruments on the cost of short-term debt.

Schedule 6 - Public Financial Reports

Instructions: Provide copies of the most recent Stockholder's Annual Report, Securities and Exchange Commission Form 10-K, and Form 10-Q for the applicant and the consolidated parent company if applicant is a subsidiary. If published, provide a copy of the most recent statistical or financial supplement for the consolidated parent company.

Schedule 7 - Comparative Financial Statements

Instructions: If not provided in the public financial reports for Schedule 6, provide comparative balance sheets, income statements, and cash flow statements for the test year and the 12-month period preceding the test year for the applicant and its consolidated parent company if applicant is a subsidiary.

Schedule 8 - Proposed Cost of Capital Statement

Instructions: Provide the applicant's proposed capital structure/cost of capital schedule. In conjunction, provide schedules that support the amount and cost of each component of the proposed capital structure, and explain all assumptions used.

Schedule 9 - Rate of Return Statement – Earnings Test – Per Books

Instructions: [~~Applicants meeting each of the four following criteria may omit this schedule in Annual Informational Filings and rate applications: (1) the applicant is not subject to § 56-585.1 of the Code of Virginia; (2) the applicant is not currently bound by a performance based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia; (3) the applicant has no Virginia jurisdictional regulatory assets on its books; and (4) the applicant is not seeking to establish a regulatory asset.~~]

Use format of attached schedule.

Schedule 9 shall reflect average rate base, capital and common equity capital. Interest expense, preferred dividends and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1)-(3) on Schedule 9.

Schedule 10 - Rate of Return Statement – Earnings Test – Generation and Distribution Per Books

Instructions: [~~For utilities subject to § 56-585.1 of the Code may omit Schedule 10 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 10A, reflecting generation only operations and Schedule 10B, reflecting distribution only operations, using the same format as Schedule 10.~~]

Utilities not subject to § 56-585.1 of the Code [of Virginia] may omit Schedule 10.

Use format of attached schedule.

Schedule 10 shall reflect average rate base, capital and common equity capital. Interest expense, preferred dividends and common equity capital shall be calculated by using the average capital structure included in Schedule 3 B and average rate base.

Schedule 10 Columns (2) - (3) shall reflect revenues, expenses and rate base for each commission-approved rate adjustment clause pursuant to §§ 56-585.1 A 5 b, c and d or A 6 of the Code of Virginia.

Regulations

Schedule 11 - Rate of Return Statement – Earnings Test – Adjusted to A Regulatory Accounting Basis

~~Instructions: [Applicants meeting each of the four following criteria may omit this schedule in Annual Informational Filings and rate applications: (1) the applicant is not subject to § 56-585.1 of the Code of Virginia; (2) the applicant is not currently bound by performance based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia; (3) the applicant has no Virginia jurisdictional regulatory assets on its books; and (4) the applicant is not seeking to establish a regulatory asset] For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 11 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 11A, reflecting generation only operation, and Schedule 11B, reflecting distribution only operations, using the same format as Schedule 11.~~

Use format of attached schedule.

Schedule 11 adjustments in Column (2) shall reflect any financial differences between Generally Accepted Accounting Principles ("GAAP") and regulatory accounting as prescribed by the commission. Each Column (2) adjustment shall be separately identified and reflected in Schedule 16.

A per books regulatory accounting adjustment to reflect Job Development Credit (JDC) Capital Expense shall be reflected in Schedule 11 Column (2), if applicable. Column (3) JDC Capital Expense shall be calculated as follows:

JDC Capital Expense = Rate Base (line 25) * weighted cost of JDC Capital in Schedule 3

The associated income tax savings shall be reflected in lines 5 and 6, Column (2) as follows:

Associated income tax savings = total average rate base (line 25) * weight of JDC capital (Sch. 3) * weighted cost of debt component of the JDC cost component (Sch. 3) * (Federal and State Income Tax rate * -1)

Schedule 11 Line 15 other income/(expense) shown in Column (3) shall be the current amount of other income/(expense) categorized as jurisdictional in the applicant's last rate case.

Schedule 12 - Rate Base Statement – Earnings Test – Per Books

~~Instructions: [Applicants meeting each of the four following criteria may omit this schedule in Annual Informational Filings and rate applications: (1) the applicant is not subject to § 56-585.1 of the Code of Virginia; (2) the applicant is not currently bound by performance based regulation plan authorized by the commission pursuant to § 56-235.6 of the Code of Virginia; (3) the applicant has no Virginia jurisdictional regulatory assets on its books; and (4) the applicant is not seeking to establish a regulatory asset.]~~

Use format of attached schedule.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1)-(3) on Schedule 12.

~~[Cash working capital allowance shall be calculated using a lead/lag study. Schedules 17 and 18 shall be provided detailing the cash working capital computation for Schedule 12 Columns (1) and (3).] Applicants with jurisdictional per books operating revenues [less of more] than \$150 million [may include a zero cash working capital requirement rather than perform] shall calculate cash working capital allowance using [a lead/lag study. [Schedules 17 and 18 shall be provided detailing the case working capital computation for Schedule 12 Columns (1) and (3). Applicants with jurisdictional per books operating revenues between \$20 and \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study. Applicants with jurisdictional per books operating revenues less than \$20 million may use a formula method to calculate cash working capital.]~~

Schedule 13 - Rate Base Statement – Earnings Test – Generation and Distribution Per Books

Instructions: Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 13.

For utilities subject to § 56-585.1 [of the Code of Virginia], Schedule 13 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 13A, reflecting generation only operations, and Schedule 13B, reflecting distribution only operations, using the same format as Schedule 13.

Use format of attached schedule.

Schedule 13 Columns (2)-(3) shall reflect rate base information for each [~~Commission~~ commission-] approved rate adjustment clause pursuant to §§ 56-585.1 A5 b, c and d or A6 of the Code of Virginia.

~~Cash working capital allowance shall be calculated using [a lead/lag study. Schedules 17 and 18 shall be provided detailing the cash working capital computation for Schedule 13 Column (5). Applicants with jurisdictional per books operating revenues less than \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study the instructions in Schedule 12].~~

Schedule 14 - Rate Base Statement – Earnings Test – Adjusted to Regulatory Accounting Basis

~~Instructions: [Applicants meeting each of the four following criteria may omit this schedule in Annual Informational Filings and rate applications: (1) the applicant is not subject to § 56-585.1 of the Code of Virginia; (2) the applicant is not currently bound by performance based regulation plan authorized by the Commission pursuant to § 56-235.6 of the Code of Virginia; (3) the applicant has no Virginia~~

~~jurisdictional regulatory assets on its books; and (4) the applicant is not seeking to establish a regulatory asset.]~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 14 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 14A, reflecting generation only operations, and Schedule 14B, reflecting distribution only operations, using the same format as Schedule 14.~~

~~Use format of attached schedule.~~

~~Cash working capital allowance shall be calculated using [a lead/lag study. Schedules 17 and 18 shall be provided detailing the cash working capital computation for Schedule 14 Column (3). Applicants with jurisdictional per books operating revenues less than \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study the instructions in Schedule 12]. Schedule 14 Column (2) shall reflect adjustments necessary to identify any financial differences between Generally Accepted Accounting Principles and regulatory accounting as prescribed by the commission.~~

Schedule 15 - Schedule of Regulatory Assets [and Per Books Deferral Pursuant to Enactment Clause 5 of Chapter 3 of the 2004 Acts of Assembly, Special Session I]

~~Instructions: If applicable per Schedules 9 and 12 instructions.~~

~~Use format of attached schedule.~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 15 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

~~All regulatory assets shall be individually listed with associated deferred income tax. Indicate whether the regulatory asset is included in financial reporting or is currently recognized for ratemaking purposes only.~~

Schedule 16 - Detail of Regulatory Accounting Adjustments

~~Instructions: If applicable per Schedules 9 and 12 instructions.~~

~~Use format of attached schedule.~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 16 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

~~Each regulatory accounting adjustment shall be numbered sequentially beginning with ET-1 and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).~~

~~Each regulatory accounting adjustment shall be fully explained in the description column of this schedule. Regulatory accounting adjustments shall adjust from a financial accounting basis to a regulatory accounting basis. Adjustments to reflect going-forward operations shall not be included on this schedule.~~

~~Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.~~

Schedule 17 - Lead/Lag Cash Working Capital Calculation – Earnings Test

~~Instructions: Use format of attached schedule.~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 17 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 17A, reflecting generation only operations, and Schedule 17B, reflecting distribution only operations, using the same format as Schedule 17.~~

~~Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 18 shall be included in the Total Cash Working Capital amount in this schedule.~~

~~The Total Cash Working Capital amount determined in this schedule shall be included in Schedules 12-14.~~

~~[Utilities required to use a lead/lag study should perform a complete lead/lag analysis every five years. Major items such as the revenue lag and balance sheet accounts should be reviewed every year.]~~

Schedule 18 - Balance Sheet Analysis – Earnings Test

~~Instructions: Use format of attached schedule.~~

~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 18 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.~~

~~All sources/uses of cash working capital shall be detailed in this schedule. The associated accumulated deferred income tax shall also be included as a source/use.~~

~~The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 17.~~

~~Support for the above schedule shall include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in (1) the balance sheet analysis, (2) the capital structure, (3) the income statement portion of the lead/lag study, or (4) excluded from cost of service. [Include a brief description of the costs included in each account.]~~

Schedule 19 - Rate of Return Statement – Per Books

~~Instructions: Use format of attached schedule.~~

Regulations

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 19 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 19A, reflecting generation only operations, and Schedule 19B, reflecting distribution only operations, using the same format as Schedule 19.

Utilities not subject to § 56-585.1 [of the Code of Virginia] shall file only Columns (1)-(3) on Schedule 19.

[~~Interest~~ Column (1) interest] expense, preferred dividends and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and [~~average rate~~ end of test] year level rate base.

Schedule 20 - Rate of Return Statement – Generation and Distribution Per Books

Instructions: [~~For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 20 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 20A, reflecting generation only operations, and Schedule 20B, reflecting distribution only operations, using the same format as Schedule 20.~~]

Utilities not subject to § 56-585.1 of the Code of Virginia may omit Schedule 20.

[Schedule 20 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 20A, reflecting generation only operations, and Schedule 20B, reflecting distribution only operations, using the same format as Schedule 20.]

Use format of attached schedule.

Schedule 20 Columns (2)-(4) shall reflect revenues, expenses and rate base for each commission-approved rate adjustment clause pursuant to §§ 56-585.1 [~~A-4,~~] A 5 b, c and d or A 6 of the Code of Virginia.

Interest expense, preferred dividends and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and [~~average rate~~ end of test] year level rate base.

Schedule 21 - Rate of Return Statement – Reflecting Ratemaking Adjustments

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 21 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 21A, reflecting generation only operations, and Schedule 21B, reflecting distribution only operations, using the same format as Schedule 21.

Schedule 21 Column (2) adjustments shall be separately identified and reflected in Schedule 25.

Interest expense, preferred dividends and common equity capital shall be calculated by using the capital structure included in Schedule 3 or Schedule 8 and [~~average rate year~~ an adjusted] level [of] rate base.

After ratemaking adjustments, JDC capital expense shall be calculated as follows:

Total rate base (line [~~28~~ 29]) * weighted cost of JDC capital in Schedule 3 or 8

[Applicants filing pursuant to 20VAC5-201-30 may omit columns (4) and (5).]

Schedule 22 - Rate Base Statement – Per Books

Instructions: Use format of attached schedule.

Utilities not subject to § 56-585.1 of the Code of Virginia shall file only Columns (1)-(3) on Schedule 22.

[~~Cash~~ Applicants with jurisdictional per books operating revenues more than \$150 million shall calculate cash] working capital allowance [~~shall be calculated~~] using a lead/lag study. Schedules 27 and 28 shall be provided detailing the cash working capital computation for [~~Column~~ Columns] (1), (3) and (7). Applicants with jurisdictional per books operating revenues [~~less than~~ between \$20 million and] \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study. [Applicants with jurisdictional per books operating revenues less than \$20 million may use a formula method to calculate cash working capital.]

Schedule 23 - Rate Base Statement – Generation and Distribution Per Books

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 23 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 23A, reflecting generation only operations, and Schedule 23B, reflecting distribution only operations, using the same format as Schedule 23.

Utilities not subject to § 56-585.1 [of the Code of Virginia] may omit Schedule 23.

Schedule 23 Columns (2) - (4) shall reflect rate base information for each commission-approved rate adjustment clause pursuant to §§ 56-585.1 [~~A-4,~~] A 5 b, c and d or A 6 of the Code of Virginia.

Cash working capital allowance shall be calculated using [~~a lead/lag study instructions in Schedule 22~~]. [~~Schedules 27 and 28 shall be provided detailing the cash working capital computation for Column (5). Applicants with jurisdictional per books operating revenues less than \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study.~~]

Schedule 24 - Rate Base Statement – Adjusted – Reflecting Ratemaking Adjustments

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 24 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 24A, reflecting generation only operations, and Schedule 24B, reflecting distribution only operations, using the same format as Schedule 24.

Cash working capital allowance shall be calculated using [a lead/lag study instructions in Schedule 22]. [Schedules 27 and 28 shall be provided detailing the cash working capital computation for Column (3). Applicants with jurisdictional per books operating revenues less than \$150 million may include a zero cash working capital requirement rather than perform a lead/lag study.]

Schedule 25 - Detail of Ratemaking Adjustments

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 25 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

Each adjustment shall be numbered sequentially and listed under the appropriate description category (Operating Revenues, Interest Expense, Common Equity Capital, etc.).

Ratemaking adjustments shall reflect a rate year level of revenues and expenses. Rate base adjustments may reflect no more than a rate year average. In Expedited Filings, Column (4) Ratemaking Adjustments shall reflect a rate year level of only those types of adjustments previously approved for the applicant.

Detailed workpapers substantiating each adjustment shall be provided in Schedule 29.

Schedule 26 - Revenue Requirement Reconciliation

Instructions: [Use format of attached lead schedule. An example of a supporting schedule is provided.]

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 26 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 26A, reflecting generation only operations, and Schedule 26B, reflecting distribution only operations, using the same format as Schedule 26.

Provide a revenue reconciliation of each [issue topic or subject] that affects the revenue requirement. All components of each [issue topic or subject] shall be detailed (i.e. payroll and related = payroll, benefits, payroll taxes, and related tax effect) [on a supporting schedule]. Cash working capital

shall be considered a separate [issue topic or subject] rather than as a component of each [issue topic or subject].

Schedule 27 - Lead/Lag Cash Working Capital Calculation – Adjusted

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 27 shall reflect combined generation and distribution operations. Additionally, such utilities shall file Schedule 27A, reflecting generation only operations, and Schedule 27B, reflecting distribution only operations, using the same format as Schedule 27.

Total Balance Sheet Net Source/Use of Average Cash Working Capital determined in Schedule 28 shall be included in the Total Cash Working Capital amount in this schedule.

The Total Cash Working Capital amount determined in this schedule shall be included in Schedules 22-24.

[Utilities required to use a lead/lag study should perform a complete lead/lag analysis every five years. Major items such as the revenue lag and balance sheet accounts should be reviewed every year.]

Schedule 28 - Balance Sheet Analysis – Adjusted

Instructions: Use format of attached schedule.

For utilities subject to § 56-585.1 of the Code of Virginia, Schedule 28 shall reflect combined generation and distribution operations as well as generation only operations and distribution only operations.

All sources/uses of cash working capital shall be detailed in this schedule. The associated accumulated deferred income tax shall also be included as a source/use.

The Net Source/Use of Average Cash Working Capital determined in this schedule shall be included in Schedule 27.

Support for the above schedule should include a list of all balance sheet subaccounts and titles. Indicate whether the account's impact is included in (1) the balance sheet analysis, (2) the capital structure, (3) the income statement portion of the [~~lead lag~~ lead/lag] study, or (4) excluded from cost of service. Include a brief description of the costs included in each account.

Schedule 29 - Workpapers for Earnings Test and Ratemaking Adjustments

Instructions: [Include a table of contents listing the workpapers included in this schedule.]

(a) Provide a [~~detailed~~] narrative explaining the purpose [, and] methodology [, any relative Financial Accounting Standards Board (FASB) statement and commission precedent used] for each adjustment identified in subsections (b) and (d) below [, which have not been

Regulations

addressed in the applicant's prefiled testimony. Such explanation shall reference any relevant Financial Accounting Standards Board ("FASB") statement or commission precedent if known or available].

(b) Provide a summary calculation of each earnings test adjustment included in Schedule 16. Each summary calculation shall identify the ~~[origin of each data item shown and include a reference to all]~~ source documents [used to prepare such calculation].

(c) Provide all [relevant] documents [, references] and information necessary to support the summary calculation required in subsection (b) for each proposed earnings test adjustment. Amounts identified as per books costs shall include any documentation [or references] necessary to verify such amount to Schedule 40A. Working papers shall be indexed and tabbed for each adjustment and include the name [~~, phone number and email address of all of the primary employee or]~~ employees responsible for the adjustment. All documents and information as referenced above should include, but not be limited to, general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports. [Supporting documentation that is voluminous may be made available at the applicant's office.]

(d) Provide a summary calculation of each rate year adjustment included in Schedule 25. Each summary calculation shall identify the ~~[origin of each data item shown and include a reference to all]~~ source documents [used to prepare such calculation].

(e) Provide all [relevant] documents and information necessary to support the summary calculation required in subsection (d) for each proposed rate year adjustment. Amounts identified as per books costs shall include any documentation necessary to verify such amount to Schedule 40b. Working papers shall be indexed and tabbed for each adjustment and include the name [~~, phone number and email address of all of the primary employee or]~~ employees responsible for the adjustment. All documents and information as referenced above should include, but not be limited to, general ledgers, payroll distributions, billing determinants, invoices, and actuarial reports.

(f) Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall separately identify functional information for each earnings test and proposed rate year adjustment required in subsections (b) and (d) [.]

Schedule 30 - Revenue and Expense Variance Analysis

Instructions: Applicant shall quantify jurisdictional operating revenues and system operating and maintenance [~~(O&M)~~ ("O&M")] expenses by primary account as specified by the appropriate federal or state Uniform System of Accounts (Federal Energy Regulatory Commission, Federal Communications Commission, National Association

of Regulatory Commissioners) (hereinafter referred to as "USOA account") during the test period and the preceding 12 months. Also, provide jurisdictional sales volumes by customer class for the test period.

Applicants [~~not~~ shall file a schedule detailing all revenue and expense accounts by month for the test period. For applicants] subject to § 56-585.1 of the Code of Virginia [, the test period shall be the second year of the two successive year test periods. Applicants] shall provide a detailed explanation of all jurisdictional revenue and system expense increases or decreases of more than 10% during the test period compared to the previous 12-month period. The expense variance analysis applies to test period expense items greater than [~~one hundredth~~ one-tenth] of one percent ([~~.0001~~ .001]) of [total] Operating & Maintenance [~~(O&M)~~] expenses [~~for utilities with O&M expenses exceeding \$100 million, and one tenth of one percent (.001) of total O&M expenses for utilities with O&M expenses below \$100 million, excluding fuel factor and purchased gas adjustment costs. Additionally, the applicant shall have an accounts payable ledger or schedule of all accounts payable for review at the applicant's office as of the date of the applicant's filing].~~

[Applicants subject to § 56-585.1 of the Code of Virginia shall provide a detailed analysis of all jurisdictional revenue and system expense increases or decreases of more than 10% during the 12 month test period compared to the previous 12-month period. The analysis shall be by month and identify applicant payroll and overheads as well as each third party cost by transaction. Additionally, the applicant shall have an accounts payable ledger or schedule of all accounts payable for review at the applicant's office as of the date of the applicant's filing.]

Schedule 31 - Advertising Expense

Instructions: A schedule detailing advertising expense by USOA account and grouped according to the categories identified in § 56-235.2 of the Code of Virginia shall be provided. Advertising costs that are not identifiable to any of those categories shall be included in a separate category titled "other." If applicant seeks rate relief, demonstrate that the applicant's advertising meets the criteria established in § 56-235.2 [~~of the Code of Virginia~~].

Schedule 32 - Storm Damage

Instructions: [This schedule applies to electric utilities only.] Provide a schedule identifying [~~minor and~~] major storm damage expense by month, FERC account and internal or third-party cost for the test year and the previous three years. Include a detailed description of the damage sustained, the length of outages associated with the storm damage and work necessary to restore service.

Schedule 33 - [~~Scheduled and Unscheduled Generation~~] Unit [~~Outages Performance~~]

Instructions: This schedule applies to those applicants subject to § 56-585.1 of the Code of Virginia. Provide a detailed schedule of each generating unit outage [or derate] identifying whether the outage [~~was scheduled or unscheduled~~, length of outage, description of cause of outage and cost by FERC account or derate was planned, maintenance or forced, and start and end dates, cause and cost. Additionally, provide the heat rate, equivalent availability factor, equivalent forced outage rate and net capacity factor for each unit] .

Schedule 34 - Miscellaneous Expenses

Instructions: Provide a description of amounts paid and USOA accounts charged for each charitable and educational donation, each payment to associated industry organizations, and all other miscellaneous general expenses. [Individual items aggregating to less than 5.0% of the total miscellaneous expense may be reflected in an "Other" line item.] Advertising expenses included in Schedule 31 should be excluded from this schedule.

Schedule 35 - Affiliate Services

Instructions: For purposes of this schedule affiliate services shall be defined to include those services between regulated and nonregulated divisions of an incumbent utility. If any portion of the required information has been filed with the commission as part of an applicant's Annual Report of Affiliate Transactions, the applicant may reference such report clearly identifying what portions of the required information are included in the Annual Report of Affiliate Transactions.

Provide a narrative description of each affiliated service received or provided during the test period.

Provide a summary of affiliate transactions detailing costs by type of service provided (e.g. accounting, auditing, legal and regulatory, human resources, etc.) for each month of the test period. Show the final USOA account distribution of all costs billed to or by the regulated entity by month for the test period.

Identify all amounts billed to an affiliate and then billed back to the regulated entity.

Cost records and market analyses supporting all affiliated charges billed to or by the regulated entity/division shall be maintained and made readily available for commission staff review. This shall include supporting detail of costs (including the return component) incurred by the affiliated interest rendering the service and the allocation methodology. In situations when the pricing is required to be the higher (lower) of cost or market and market is unavailable, note each such transaction and have data supporting such a finding available for commission staff review.

If affiliate charges are booked per a pricing mechanism other than that approved by the commission, the regulated entity shall provide a reconciliation of books to commission-approved pricing, including an explanation of why the commission-approved pricing is not used for booking purposes.

Schedule 36 - Income Taxes

Instructions: Provide a schedule detailing the computation of test period current state and federal income taxes on a total company and Virginia jurisdictional basis. Such schedule should provide a complete reconciliation between book and taxable income showing all individual differences. Additionally, provide a schedule detailing the computation of fully adjusted, current state and federal income taxes applicable to the Virginia jurisdiction.

Provide a schedule detailing the individual items of deferred state and federal income tax expense for the test period on a total company and Virginia jurisdictional basis. Additionally, provide a schedule detailing the computation of fully adjusted, deferred state and federal income tax applicable to the Virginia jurisdiction.

Provide a detailed reconciliation between the statutory and effective income tax rates for the test period. Schedule should quantify individual reconciling items by dollar amount and percentage. Individual items should include but not be limited to permanent differences (itemize), flow-through depreciation, excess deferred FIT amortization and deferred Investment Tax Credit [~~(ITC)~~ ("ITC")] amortization.

Provide a detailed listing of individual accumulated deferred income tax and accumulated deferred ITC amounts as of the end of test period. Separately identify those items affecting the computation of rate base on both a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax and accumulated deferred ITC amounts for the earnings test rate base (if applicable), the end of test period rate base, and the fully-adjusted rate base, on a Virginia jurisdictional basis.

[~~Provide stand alone federal and state income tax returns applicable to the test period.~~]

Provide a detailed reconciliation between the federal and state [~~income current~~] tax [~~liabilities per these expense on a~~] stand-alone [~~tax returns~~ basis] and the actual per book federal and state [~~income current~~] tax [~~liabilities expense~~] for the test period on a total company and Virginia jurisdictional basis.

[Provide a schedule depicting, by month, all federal and state income tax payments made during the test year. For each payment, identify the recipient.]

Provide a detailed reconciliation between deferred federal and state income expense computed on a stand-alone basis

Regulations

and the actual per book deferred federal and state income tax expense, on a total company and Virginia jurisdictional basis.

Provide a detailed reconciliation between individual accumulated deferred federal and state income tax assets and liabilities computed on a stand-alone basis and the actual per book accumulated deferred income tax amounts as of the end of the test period, on a total company and Virginia jurisdictional basis. Additionally, provide a detailed listing of individual accumulated deferred income tax assets and liabilities computed on a stand-alone basis for the earnings test rate base (if applicable), the end of test period rate base, and the fully-adjusted rate base, on a Virginia jurisdictional basis.

[Tax returns filed per this schedule may be excluded from the Microsoft Excel version required per 20VAC5-201-10 H.]

Schedule 37 - Organization

Instructions: Provide an organizational chart of the applicant and its parent company detailing subsidiaries and divisions. Provide details of any material corporate reorganizations since the applicant's last rate case. Explain the reasons and any ratemaking impact of each such reorganization.

Schedule 38 - Changes in Accounting Procedures

Instructions: Detail any material changes in accounting procedures adopted by either the parent/service company or the utility since the applicant's last rate case. Explain any ratemaking impact of such changes.

Identify any write-offs or write-downs associated with assets (i.e. plant, tax accounts, etc.) that have been retained, transferred or sold.

Schedule 39 - Out-of-Period Book Entries

Instructions: Provide a summary schedule prepared from an analysis of journal entries showing "out-of-period" items booked during the test period. Show journal entry number, amount, USOA account and explanation of charge.

Schedule 40 - Jurisdictional and Class Cost of Service Study

Instructions: Use format of attached schedule.

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide [functionally] separate [schedules for] generation, transmission and distribution information for subsections (a), (b) and (c) as well as bundled information. [~~Transmission shall reflect the Virginia retail information that has been converted from the Federal Energy Regulatory Commission (FERC) approved wholesale information. Additionally, provide a detailed calculation and explanation showing how the FERC wholesale transmission information is converted to Virginia retail information~~ Each functional schedule shall provide separate columns, as

applicable, for each rate adjustment clause approved by the commission under § 56-585.1 A 4, 5 or 6].

(a) Provide detailed calculations for all jurisdictional allocations for each revenue, expense and rate base USOA account used to create Schedules 9 and 10. Allocations should be based on test year average data. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case.

(b) Provide detailed calculations for all jurisdictional allocations for each revenue, expense and rate base USOA account used to create Schedules 19 and 22. Show the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case. For electric utilities, provide the calculations supporting the applicant's line loss percentages. [Additionally, clearly show the derivation of the transmission cost components allocated to Virginia.]

(c) Provide a class cost of service study [~~used to create Schedules 21 and 24. Show showing~~] the allocation basis for each primary USOA account and for any amount included therein with a unique allocation basis. Explain the methodology used and why such method is proposed. [Class transmission allocations shall reflect the Virginia retail information that has been converted from the Federal Energy Regulatory Commission (FERC) approved wholesale information. Provide a detailed calculation and explanation showing how the FERC wholesale transmission information is converted to Virginia retail information.] Discuss all changes in the applicant's operations that have materially changed any allocation factor since the last rate case.

(d) Applicant shall provide appropriate supporting cost data for new allocation methodologies or rate design proposals in expedited rate applications.

Schedule 41 - Proposed Rates and Tariffs

Instructions: Provide a summary of the rates designed to effect the proposed revenue increase. Provide a copy of all tariff pages that the applicant proposes to revise in this proceeding, with revisions indicated by a dashed line (--) through proposed deletions and by underlining proposed additions.

Schedule 42 - Present and Proposed Revenues

Instructions:

(a) Provide the detailed calculations supporting total per books revenues in Column (3) of Schedule 21. The present revenues from each of the applicant's services shall be determined by multiplying the current rates times the test period billing units (by rate block, if applicable).

(b) Provide a detailed calculation supporting total adjusted revenues in Column (5) of Schedule 21. The proposed revenues from each of applicant's services shall be determined by multiplying the proposed rates by the adjusted billing units (by rate block, if applicable). Detail by rate schedule all miscellaneous charges and other revenues, if applicable. Reconcile per books billing units to adjusted billing units itemizing changes such as customer growth, weather, btu content and miscellaneous revenues. The revenue changes for applicant's services should be subtotaled into the applicant's traditional categories.

Schedule 43 - Sample Billing

Instructions: Electric, natural gas and water or sewer utilities shall provide a sample billing analysis detailing the effect on each rate schedule at representative levels of consumption.

Schedule 44 - [~~Per Books Deferrals Recorded Rate Adjustment Clauses~~ Pursuant to [~~§§ 56-249.6, 56-582 and 58.1-3833~~ § 56-585.1 A 4, 5 or 6] of the Code of Virginia

Instructions: Use format of attached schedule.

Applicant shall file a Schedule 44 for each [~~per books deferral~~ rate clause approved by the commission] by month for [~~the test year~~ both the first and second year of the two successive 12-month test periods in a biennial review].

[~~Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall file Schedule 44 for both the first and second year of the two successive 12 month test periods in a biennial review.~~

~~Investor owned electric utilities subject to § 56-585.1 of the Code of Virginia shall identify off system sales margins calculated pursuant to § 56-249.6 of the Code of Virginia in Schedule 44 and demonstrate that such margins have no effect on Virginia jurisdictional returns reflected in Schedules 11 and Schedule 21 in a biennial review.~~

~~Provide a calculation of the Allowance for Funds Used During Construction rate that was recorded during the test year.~~

~~Provide support for the monthly Allowance for Funds Used During Construction accruals recorded on the applicant's books.~~

~~Provide a schedule of costs for each rate adjustment clause, by month and FERC account, for the test year. Indicate which clauses the applicant will propose to include in future base rates rather than through a separate rate adjustment clause].~~

[~~Schedule 45 – Rate Adjustment Clauses Pursuant to § 56-585.1 A 4, 5 or 6 of the Code of Virginia~~

~~Instructions: Use format of attached schedule.~~

~~Applicant shall file a Schedule 45 for each rate clause approved by the commission by month for both the first and second year of the two successive 12 month test periods in a biennial review.~~

~~Provide a calculation of the Allowance for Funds Used During Construction rate that was recorded during the test year.~~

~~Provide support for the monthly Allowance for Funds Used During Construction accruals recorded on the applicant's books.~~

~~Provide a schedule of costs for each rate adjustment clause, by month and FERC account, for the test year. Indicate which clauses the applicant will propose to include in future base rates rather than through a separate rate adjustment clause.]~~

Schedule [~~46 45~~] - Return on Equity Peer Group Benchmark

~~Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall provide all documentation supporting the return on equity benchmark proposed pursuant to § 56-585.1 A 2 a and b of the Code of Virginia. Such documentation shall include a complete list of all potential peer group utilities with corresponding returns calculated for each of the three years within the requisite three-year period, Securities and Exchange Commission documents in which such peer group returns are reported for the three-year period, a detailed explanation of why utilities were excluded from the proxy group, and a spreadsheet showing how such returns were calculated.~~

[~~Schedule 47 – Rate Cap Adjustments filed Pursuant to § 56-582 or § 56-585.1 A5 of the Code of Virginia~~

~~Provide all documents, contracts, studies, investigations or correspondence that support projected costs for each rate adjustment. Such information should demonstrate that the costs are incremental and not reflected in previously approved rates.~~

~~Provide the annual revenue requirement for the projected cost by year by rate adjustment.~~

~~Provide a detailed description of the accounting procedures and internal controls that the company will institute to identify all costs associated with each rate adjustment.]~~

Schedule [~~48 46~~] - Projected Rate Adjustment Clause Pursuant to § 56-585.1 A 4, [A] 5 b, c and d or [A] 6 of the Code of Virginia

~~Instructions: Applicant shall provide a schedule of all projected costs by type of cost and year associated with each~~

Regulations

rate adjustment clause pursuant to § 56-585.1 A 4, [A] 5 b, c and d or [A] 6 of the Code of Virginia that has been approved by the commission or for which the applicant is seeking initial approval.

Provide all documents, contracts, studies, investigations or correspondence that support projected costs proposed to be recovered via a rate adjustment clause.

Provide the annual revenue requirement over the duration of the proposed rate adjustment clause by year and by class.

Provide a detailed description of [~~the~~ all significant] accounting procedures and internal controls that the company will institute to identify all costs associated with each rate adjustment clause.

(a) For a rate adjustment clause filed pursuant to § 56-585.1 A 4 of the Code of Virginia provide the docket/case number and FERC ruling approving the wholesale transmission rate/cost for which the applicant is seeking recovery approval.

(b) For a rate adjustment clause filed pursuant to § 56-585.1 A 6 of the Code of Virginia provide information relative to the need and prudence of proposed generating unit addition(s). [~~Such statement should demonstrate that the proposed generating unit is consistent with a least cost integrated resource plan.~~]

[Applications for rate adjustment clauses for the recovery of costs of proposed new generating facilities should also provide the following information to demonstrate the reasonableness and prudence of the selection of such facilities:

(a) Feasibility and engineering design studies that support the specific plant type and site selected;

(b) Fuel supply studies that demonstrate the availability and adequacy of selected fuels;

(c) Detailed support for planning assumptions regarding plant performance and operating costs, including historical information for similar units;

(d) Economic studies that compare the selected alternative with other options considered, including sensitivity analyses and production costing simulations of the applicant's overall generating resources that demonstrate that the selected option is the best alternative;

(e) Load and generating capacity reserve forecast information that demonstrates the need for the plant in the in-service year proposed; and

(f) Detailed cost estimate for the facility, included projected costs of construction, transmission interconnections, fuel supply related infrastructure improvements and project financing.]

Provide detailed information relative to the applicant's methodology for allocating the revenue requirement among rate classes and the design of the class rates.

Schedule [49 47] - Total Aggregated Revenues and Consumer Price Index ("CPI")

Investor-owned electric utilities subject to § 56-585.1 of the Code of Virginia shall file the following:

(a) A detailed schedule showing the calculation of total aggregate regulated rates as defined in § 56-585.1 A 9 of the Code of Virginia for each year beginning with calendar year 2010. [~~Provide supporting documentation of the calculation of the average rate for each class.~~]

(b) A schedule of annual increases in the United States Average Consumer Price Index as described in § 56-585.1 A 9 [~~of the Code of Virginia~~] beginning with calendar year 2010. Additionally, include the annual compounded amount.

[Schedule 48-Conservation and ratemaking efficiency plans

Instructions:

Applications made pursuant to § 56-602 A and B or § 56-602 A and C of the Code of Virginia shall file the following:

(1) Provide the revenue study or class cost of service study relied upon to establish annual per-customer fixed costs on an intraclass basis.

(2) Provide detailed calculations supporting determinations of current class, normalized or proposed class revenues. Such calculations should clearly show current, normalized or proposed annual billing determinants (by rate block and class). Reconcile per books billing units to adjusted billing units itemizing changes such as customer growth, weather, and btu content and miscellaneous revenues.

(3) Provide detailed calculations supporting the revenues produced by the rates, tariff design or mechanism designed to effect the proposed conservation and ratemaking efficiency plan. Provide illustrative examples if necessary. Detail by rate schedule all miscellaneous charges and other revenues, if applicable. To the extent any of the information requested in this paragraph has been provided in (2) above, it does not need to be restated.

(4) Provide a sample billing analysis detailing the effect of the proposed rates, tariff design or mechanism designed to effect the proposed conservation or ratemaking efficiency plan on each rate schedule at representative levels of consumption.

(5) Provide the detailed calculations showing that the rates, tariff design or mechanism designed to effect the proposed conservation and ratemaking plan is revenue neutral as

defined in Chapter 25 (§ 56-600 et seq.) of Title 56 of the Code of Virginia.

(6) Provide a copy of all tariff pages that the applicant proposes to revise in this proceeding, with deletions indicated by a dashed line (--) and additions indicated by an underscore.

(7) Provide a detailed description and analysis of the proposed conservation program or programs and a cost benefit assessment of the program or programs using the Total Resource Cost Test, the Societal Test, the Program Administrator Test, the Participant Test, and the Rate Impact Measure Test. Detail and support all assumptions utilized in the cost benefit assessments.

(8) Provide a detailed narrative describing the proposed normalization component that removes the effect of weather from the determination of conservation and energy efficiency results. Additionally, provide any supporting calculation of such component.

(9) Provide a detailed narrative describing the proposed decoupling mechanism.

(10) Provide a detailed narrative describing all proposed cost-effective conservation and energy efficiency plans.

(11) Provide a detailed narrative describing the provisions addressing the needs of low-income or low-usage residential customers.

(12) Provide a detailed narrative describing provisions ensuring that rates and services to nonparticipating classes of customers are not adversely impacted. Additionally, provide all studies or calculations supporting such conclusions.]

Schedule [50 49] - Additional Schedules

Reserved for additional exhibits presented by the applicant to be labeled [50A Schedule 49] et seq.

[20VAC5-201-95. Schedules 1 through 14 and exhibits for Chapter 201.

The following schedules and exhibits are to be used in conjunction with this chapter.]

COMPANY NAME
HISTORIC PROFITABILITY AND MARKET DATA
CASE NO. PUE-----

Exhibit No.: _____
Witness: _____
Schedule 1

Consolidated Company Profitability and Capital Market Data 4th Year Prior 3rd Year Prior 2nd Year Prior 1st Year Prior Test Period

A. Ratios

Return on Year End Equity

Return on Average Equity

Earnings Per Share

Dividends Per Share

Payout Ratio

Market Price of Common Stock:

Year's High

Year's Low

Average Price

Dividend Yield on Common Stock:

Price Earnings Ratio

B. External Funds Raised

External Funds Raised - Debt:

Dollar Amount Raised

Coupon Rate

Bond Rating(s)

(Rating Service)

Regulations

External Funds Raised - Preferred Stock:

Dollar Amount Raised

Dividend Rate

Preferred Stock Rating(s)

(Rating Service)

External Funds Raised - Common Equity

Dollar Amount from Public Offering

Number Shares Issued

Average Offering Price

C. Subsidiary Data

Return on Year End Equity

Return on Average Equity

External Funds Raised - Bonds:

Dollar Amount Raised

Coupon Rate

Bond Rating(s)

(Rating Service)

External Funds Raised - Preferred Stock

Dollar Amount Raised

Dividend Rate

Preferred Stock Rating(s)

(Rating Service)

Equity Capital Transfer

From Parent

(Dollar Amount-Net)

COMPANY NAME
INTEREST AND CASH FLOW COVERAGE DATA
CASE NO. PUE-----

Exhibit No.: _____
Witness: _____
Schedule 2

Coverage Ratios and Cash Flow Profile Data 4th Year Prior 3rd Year Prior 2nd Year Prior 1st Year Prior Test Period

A. Consolidated Company Data

Interest Coverage Ratio

Pre-Tax

Cash Flow Coverage Ratios

a. Common Dividend Coverage

b. Cash Flow Coverage of Construction
Expenditures

c. Cash After Dividends Coverage of Construction
Expenditures

Data for Interest Coverage

- 1 Net Income
- 2 Income Taxes
- 3 Interest on Mortgages
- 4 Other Interest
- 5 Total Interest
- 6 Earnings Before Interest and Taxes (Lines 1+2+5)

Data for Cash Flow Coverage

- 7 Net Income
- 8 AFUDC
- 9 Amortization
- 10 Depreciation
- 11 Change in Deferred Taxes
- 12 Change in Investment Tax Credits
- 13 Preferred Dividends Paid
- 14 Cash Flow Generated (Lines 1-8+9+10+11+12-13)
- 15 Construction Expenditures
- 16 Common Dividends Paid

B. Subsidiary Data

Interest Coverage Ratio

Pre-Tax (Line 6 [+ /] Line 5)

Cash Flow Coverage Ratios

- a. Common Dividend Coverage (Line 14 [÷ /] 16)
- b. Cash Flow Coverage of Construction Expenditures (Line 14 [÷ /] 15)
- c. Cash After Dividends Coverage of Construction Expenditures ((Lines 14-16) [÷ /] 15)

Data for Interest Coverage

- 1 Net Income
- 2 Income Taxes
- 3 Interest on Mortgages
- 4 Other Interest
- 5 Total Interest
- 6 Earnings Before Interest and Taxes

Data for Cash Flow Coverage

- 7 Net Income
- 8 AFUDC
- 9 Amortization
- 10 Depreciation
- 11 Change in Deferred Taxes

Regulations

12 Change in Investment Tax Credits

13 Preferred Dividends Paid

14 Cash Flow Generated

15 Construction Expenditures

16 Common Dividends Paid

COMPANY NAME
CAPITAL STRUCTURE AND COST OF CAPITAL STATEMENT - PER BOOKS AND AVERAGE
CASE NO. PUE-----

Exhibit No.: _____
Witness: _____
Schedule 3

	(1)	(2)	(3)	(4)	(5)	(6)
	4th Year	3rd Year Prior	2nd Year Prior	1st Year Prior	Test	Five-Quarter
	Prior				Period	or 13-Month
						Average

A. Capital Structure Per Balance Sheet (\$)

Short-Term Debt
Customer Deposits
Other Current Liabilities
Long-Term Debt
Preferred & Preference Stock
Common Equity
Investment Tax Credits
Other Tax Deferrals
Other Liabilities
Total Capitalization

B. Capital Structure Approved for Ratemaking Purposes (\$)

Short-Term Debt [⁽⁴⁾]
Long-Term Debt
Preferred & Preference Stock
Job Development Credits
Common Equity
Other (specify)
Total Capitalization

C. Capital Structure Weights for Ratemaking Purposes

Short-Term Debt
Long-Term Debt
Preferred & Preference Stock
Job Development Credits
Common Equity
Other (specify)
Total Capitalization (100%)

D. Component Capital Cost Rates (%)

Short-Term Debt
Long-Term Debt
Preferred & Preference Stock
Job Development Credits
Common Equity (Authorized)
Other (specify)

E. Component Weighted Cost Rates (%)

Short-Term Debt
Long-Term Debt
Preferred & Preference Stock
Job Development Credits
Common Equity (Authorized)
Other (specify)
Weighted Cost of Capital

[⁽⁴⁾For ratemaking purposes, short-term debt shall be based on a daily average balance over the test year or alternatively on a 13-month average balance over the

test year:]

COMPANY NAME
 RATE OF RETURN STATEMENT - EARNINGS TEST - PER BOOKS FOR THE TEST YEAR
 ENDED --/--/--
USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY

Exhibit No.: _____
Witness: _____
Schedule 9

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
<u>LINE NO.</u>	<u>Total Company</u>	<u>Non-Juris-dictional</u>	<u>Virginia Cost of Service Amount (1)-(2)</u>	<u>Retail Transmission Per Books</u>	<u>Generation Per Books</u>	<u>Distribution Per Books</u>	<u>Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)</u>
1	<u>OPERATING REVENUE</u>						
2	<u>OPERATING REVENUE DEDUCTIONS</u>						
3	<u>OPERATION & MAINTENANCE EXPENSE</u>						
4	<u>DEPRECIATION & AMORTIZATION</u>						
5	<u>FEDERAL INCOME TAXES</u>						
6	<u>STATE INCOME TAXES</u>						
7	<u>TAXES OTHER THAN INCOME TAXES</u>						
8	<u>(GAIN)/LOSS ON DISPOSITION OF PROPERTY</u>						
9	<u>TOTAL OPERATING REVENUE DEDUCTIONS</u>						
10	<u>OPERATING INCOME</u>						
11	<u>PLUS: AFUDC</u>						
12	<u>LESS: CHARITABLE DONATIONS</u>						
13	<u>INTEREST EXPENSE ON CUSTOMER DEPOSITS</u>						
14	<u>INTEREST ON SUPPLIER REFUNDS</u>						
15	<u>OTHER INTEREST EXPENSE/ (INCOME)</u>						

Regulations

16	<u>ADJUSTED OPERATING INCOME</u>								
17	PLUS: <u>OTHER INCOME/ [(] EXPENSE)</u>								
18	LESS: <u>INTEREST EXPENSE-BOOKED</u>								
19	<u>PREFERRED DIVIDENDS</u>								
20	<u>JDC CAPITAL EXPENSE</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
21	<u>INCOME AVAILABLE FOR COMMON EQUITY</u>								
22	<u>ALLOWANCE FOR WORKING CAPITAL</u>								
23	PLUS: <u>NET UTILITY PLANT</u>								
24	LESS: <u>OTHER RATE BASE DEDUCTIONS</u>								
25	<u>TOTAL AVERAGE RATE BASE</u>								
26	<u>TOTAL AVERAGE CAPITAL</u>								
27	<u>AVERAGE COMMON EQUITY CAPITAL</u>								
28	<u>% RATE OF RETURN EARNED ON AVG. RATE BASE</u>								
29	<u>% RATE OF RETURN EARNED ON AVG. COMMON EQ.</u>								

[Notes:

For utilities subject to § 56-585.1 of the Code of Virginia,] Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

COMPANY NAME
RATE OF RETURN STATEMENT - EARNINGS TEST
GENERATION AND DISTRIBUTION - PER BOOKS FOR THE TEST YEAR ENDED --/--/--
USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY

Exhibit No.: _____
Witness: _____
Schedule 10

		(1)	(2)	(3)	(4)
<u>LINE NO.</u>		<u>Virginia Juris. Cost of Service Including Rate Adjusting Clauses</u>	<u>Rate Adjustment Clause Pursuant to § 56-585.1 A 5 b, c or d</u>	<u>Rate Adjustment Clause Pursuant to § 56-585.1 A 6</u>	<u>Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses (1)-(2)-(3)</u>
1	<u>OPERATING REVENUE</u>				
2	<u>OPERATING REVENUE DEDUCTIONS</u>				
3	<u>OPERATION & MAINTENANCE EXPENSE</u>				
4	<u>DEPRECIATION & AMORTIZATION</u>				
5	<u>FEDERAL INCOME TAXES</u>				
6	<u>STATE INCOME TAXES</u>				
7	<u>TAXES OTHER THAN INCOME TAXES</u>				
8	<u>(GAIN)/LOSS ON DISPOSITION OF PROPERTY</u>				
9	<u>TOTAL OPERATING REVENUE DEDUCTIONS</u>				
10	<u>OPERATING INCOME</u>				
11	<u>PLUS: AFUDC</u>				
12	<u>LESS: CHARITABLE DONATIONS</u>				
13	<u>INTEREST EXPENSE ON CUSTOMER DEPOSITS</u>				
14	<u>INTEREST ON SUPPLIER REFUNDS</u>				
15	<u>OTHER INTEREST EXPENSE/(INCOME)</u>				
16	<u>ADJUSTED OPERATING INCOME</u>				
17	<u>PLUS: OTHER INCOME/(EXPENSE)</u>				
18	<u>LESS: INTEREST EXPENSE- BOOKED</u>				
19	<u>PREFERRED DIVIDENDS</u>				
20	<u>JDC CAPITAL EXPENSE</u>	n/a	n/a	n/a	n/a

Regulations

- 21 INCOME AVAILABLE FOR COMMON EQUITY
- 22 ALLOWANCE FOR WORKING CAPITAL
- 23 PLUS: NET UTILITY PLANT
- 24 LESS: OTHER RATE BASE DEDUCTIONS
- 25 TOTAL AVERAGE RATE BASE
- 26 TOTAL AVERAGE CAPITAL
- 27 AVERAGE COMMON EQUITY CAPITAL
- 28 % RATE OF RETURN EARNED ON AVG. RATE BASE
- 29 % RATE OF RETURN EARNED ON AVG. COMMON EQ.

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 9 Column (7).

<u>COMPANY NAME</u>		<u>RATE OF RETURN STATEMENT - EARNINGS TEST</u>		<u>Exhibit No.:</u> _____
<u>ADJUSTED TO A REGULATORY ACCOUNTING BASIS FOR THE TEST YEAR ENDED --/--/--</u>		<u>USING THIRTEEN MONTH AVERAGE RATE BASE AND COMMON EQUITY</u>		<u>Witness:</u> _____
		<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
				<u>[(4)]</u>
				<u>Virginia</u>
				<u>Jurisdictional</u>
				<u>Cost of Service</u>
				<u>after</u>
				<u>Adjustments</u>
				<u>(1)+(2)</u>
				<u>[Quantification</u>
				<u>of Over/Under</u>
				<u>Earnings]</u>
<u>LINE NO.</u>		<u>Per Books Virginia</u>	<u>Regulatory</u>	
		<u>Juris. Cost of Service</u>	<u>Accounting</u>	
			<u>Adjustments</u>	
1	<u>OPERATING REVENUE</u>			
2	<u>OPERATING REVENUE</u>			
	<u>DEDUCTIONS</u>			
3	<u>OPERATION &</u>			
	<u>MAINTENANCE EXPENSE</u>			
4	<u>DEPRECIATION &</u>			
	<u>AMORTIZATION</u>			
5	<u>FEDERAL INCOME TAXES</u>			
6	<u>STATE INCOME TAXES</u>			
7	<u>TAXES OTHER THAN</u>			
	<u>INCOME TAXES</u>			
8	<u>(GAIN)/LOSS ON</u>			
	<u>DISPOSITION OF PROPERTY</u>			
9	<u>TOTAL OPERATING REVENUE</u>			
	<u>DEDUCTIONS</u>			
10	<u>OPERATING INCOME</u>			
11	<u>PLUS: AFUDC</u>			
12	<u>LESS: CHARITABLE</u>			

	<u>DONATIONS</u>
<u>13</u>	<u>INTEREST EXPENSE</u> <u>ON CUSTOMER</u> <u>DEPOSITS</u>
<u>14</u>	<u>INTEREST ON</u> <u>SUPPLIER REFUNDS</u>
<u>15</u>	<u>OTHER INTEREST</u> <u>EXPENSE/(INCOME)</u>
<u>16</u>	<u>ADJUSTED OPERATING</u> <u>INCOME</u>
<u>17</u>	<u>PLUS: OTHER</u> <u>INCOME/(EXPENSE)</u>
<u>18</u>	<u>LESS: INTEREST EXPENSE-</u> <u>BOOKED</u>
<u>19</u>	<u>PREFERRED</u> <u>DIVIDENDS</u>
<u>20</u>	<u>JDC CAPITAL</u> <u>EXPENSE</u>
<u>21</u>	<u>INCOME AVAILABLE FOR</u> <u>COMMON EQUITY</u>
<u>22</u>	<u>ALLOWANCE FOR WORKING</u> <u>CAPITAL</u>
<u>23</u>	<u>PLUS: NET UTILITY PLANT</u>
<u>24</u>	<u>LESS: OTHER RATE BASE</u> <u>DEDUCTIONS</u>
<u>25</u>	<u>TOTAL AVERAGE RATE BASE</u>
<u>26</u>	<u>TOTAL AVERAGE CAPITAL</u>
<u>27</u>	<u>AVERAGE COMMON EQUITY</u> <u>CAPITAL</u>
<u>28</u>	<u>% RATE OF RETURN EARNED</u> <u>ON AVG. RATE BASE</u>
<u>29</u>	<u>% RATE OF RETURN EARNED</u> <u>ON AVG. COMMON EQ.</u>

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 10 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 [~~of the Code of Virginia~~] shall come from Schedule 9 Column (3).

Regulations

[COMPANY NAME
 RATE BASE STATEMENT - EARNINGS TEST - PER BOOKS
 THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE

Exhibit No.: _____
 Witness: _____
 Schedule 12

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
			Virginia Cost of Service Amount (1)-(2)	Retail Transmission Per Books	Generation Per Books	Distribution Per Books	Virginia Juris- dictional Gen. and Distr. Cost of Service (5)+(6)
LINE NO.	Total Company	Non- Juris- dictional					
1							
	<u>ALLOWANCE FOR WORKING CAPITAL</u>						
2							
	<u>MATERIAL AND SUPPLIES</u>						
3							
	<u>CASH WORKING CAPITAL (LEAD LAG STUDY)</u>						
4							
	<u>DEFERRED FUEL/DEFERRED GAS NET OF FIT</u>						
5							
	<u>OTHER WORKING CAPITAL</u>						
6							
	<u>TOTAL ALLOWANCE FOR WORKING CAPITAL</u>						
7							
	<u>NET UTILITY PLANT</u>						
8							
	<u>UTILITY PLANT IN SERVICE</u>						
9							
	<u>ACQUISITION ADJUSTMENTS</u>						
10							
	<u>CONSTRUCTION WORK IN PROGRESS</u>						
11							
	<u>PLANT HELD FOR FUTURE USE</u>						
12							
	<u>LESS: ACCUMULATED PROVISION FOR DEPRECIATION AND AMORTIZATION</u>						
13							
	<u>CUSTOMER ADVANCES FOR CONSTRUCTION</u>						
14							
	<u>TOTAL NET UTILITY PLANT</u>						
15							
	<u>RATE BASE DEDUCTIONS</u>						
16							
	<u>CUSTOMER DEPOSITS</u>						
17							
	<u>SUPPLIER REFUNDS</u>						

- 19 ACCUMULATED DEFERRED INCOME TAXES
- 20 OTHER COST FREE CAPITAL
- 21 TOTAL RATE BASE DEDUCTIONS
- 22 TOTAL AVERAGE RATE BASE

Note:

For utilities subject to § 56-585.1 of the Code of Virginia, Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.]

	<u>COMPANY NAME</u> <u>RATE [OF RETURN BASE] STATEMENT - EARNINGS TEST</u> <u>GENERATION AND DISTRIBUTION PER BOOKS</u> <u>THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE</u>		<u>Exhibit No.:</u> _____ <u>Witness:</u> _____ <u>Schedule 13</u>
<u>LINE NO.</u>	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
	<u>Virginia Juris. Cost of Service Including Rate Adjustment Clauses</u>	<u>Rate Adjustment Clause Pursuant to § 56-585.1 A 5 b, c or d</u>	<u>Rate Adjustment Clause Pursuant to § 56-585.1 A 6</u>
			<u>(4)</u>
			<u>Virginia Juris. Cost of Service Excluding Rate Adjustment Clauses</u> <u>(1)-(2)-(3)</u>
<u>1</u>	<u>ALLOWANCE FOR WORKING CAPITAL</u>		
<u>2</u>	<u>MATERIAL AND SUPPLIES</u>		
<u>3</u>	<u>CASH WORKING CAPITAL (LEAD LAG STUDY)</u>		
<u>4</u>	<u>DEFERRED FUEL/DEFERRED GAS NET OF FIT</u>		
<u>5</u>	<u>OTHER WORKING CAPITAL</u>		
<u>6</u>	<u>TOTAL ALLOWANCE FOR WORKING CAPITAL</u>		
<u>7</u>	<u>NET UTILITY PLANT</u>		
<u>8</u>	<u>UTILITY PLANT IN SERVICE</u>		
<u>9</u>	<u>ACQUISITION ADJUSTMENTS</u>		
<u>10</u>	<u>CONSTRUCTION WORK IN PROGRESS</u>		
<u>11</u>	<u>PLANT HELD FOR FUTURE USE</u>		
<u>12</u>	<u>LESS: ACCUMULATED PROVISION FOR DEPRECIATION</u>		
<u>13</u>	<u>AND AMORTIZATION</u>		

Regulations

<u>14</u>	<u>CUSTOMER ADVANCES FOR CONSTRUCTION</u>
<u>15</u>	<u>TOTAL NET UTILITY PLANT</u>
<u>16</u>	<u>RATE BASE DEDUCTIONS</u>
<u>17</u>	<u>CUSTOMER DEPOSITS</u>
<u>18</u>	<u>SUPPLIER REFUNDS</u>
<u>19</u>	<u>ACCUMULATED DEFERRED INCOME TAXES</u>
<u>20</u>	<u>OTHER COST FREE CAPITAL</u>
<u>21</u>	<u>TOTAL RATE BASE DEDUCTIONS</u>
<u>22</u>	<u>TOTAL AVERAGE RATE BASE</u>

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 12 Column (7).

<u>COMPANY NAME</u>			
<u>RATE BASE STATEMENT - EARNINGS TEST</u>			
<u>ADJUSTED TO A REGULATORY ACCOUNTING BASIS</u>			
<u>THIRTEEN-MONTH AVERAGE PER BOOKS RATE BASE</u>			
	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
<u>LINE NO.</u>	<u>Per Books Virginia Juris. Cost of Service</u>	<u>Regulatory Accounting Adjustments</u>	<u>Virginia Jurisdictional Cost of Service after Adjustments (1)+(2)</u>
<u>1</u>	<u>ALLOWANCE FOR WORKING CAPITAL</u>		
<u>2</u>	<u>MATERIAL AND SUPPLIES</u>		
<u>3</u>	<u>CASH WORKING CAPITAL (LEAD LAG STUDY)</u>		
<u>4</u>	<u>DEFERRED FUEL/DEFERRED GAS NET OF FIT</u>		
<u>5</u>	<u>OTHER WORKING CAPITAL</u>		
<u>6</u>	<u>TOTAL ALLOWANCE FOR WORKING CAPITAL</u>		
<u>7</u>	<u>NET UTILITY PLANT</u>		
<u>8</u>	<u>UTILITY PLANT IN SERVICE</u>		
<u>9</u>	<u>ACQUISITION ADJUSTMENTS</u>		
<u>10</u>	<u>CONSTRUCTION WORK IN PROGRESS</u>		
<u>11</u>	<u>PLANT HELD FOR FUTURE USE</u>		
<u>12</u>	<u>LESS: ACCUMULATED PROVISION FOR DEPRECIATION</u>		
<u>13</u>	<u>AND AMORTIZATION</u>		
<u>14</u>	<u>CUSTOMER ADVANCES FOR CONSTRUCTION</u>		
<u>15</u>	<u>TOTAL NET UTILITY PLANT</u>		
<u>16</u>	<u>RATE BASE DEDUCTIONS</u>		

Exhibit No.: _____
 Witness: _____
 Schedule 14

- 17 CUSTOMER DEPOSITS
- 18 SUPPLIER REFUNDS
- 19 ACCUMULATED DEFERRED INCOME TAXES
- 20 OTHER COST FREE CAPITAL
- 21 TOTAL RATE BASE DEDUCTIONS
- 22 TOTAL AVERAGE RATE BASE

[Notes:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 13 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 12 Column (3).

20VAC5-201-100. Schedules 15 through 22 [and exhibits] for Chapter 201.

The following schedules [and exhibits] are to be used in conjunction with this chapter.

		<u>COMPANY NAME</u>				<u>Exhibit No.: _____</u>	
		<u>SCHEDULE OF REGULATORY ASSETS</u>				<u>Witness: _____</u>	
		<u>AS OF --/--/--</u>				<u>Schedule 15</u>	
		<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>
		<u>Start of</u>					<u>End of</u>
		<u>Year</u>					<u>Year</u>
		<u>Date</u>	<u>Year</u>	<u>Start of Year</u>	<u>Test Year</u>	<u>Test</u>	<u>Date</u>
<u>Account Number</u>	<u>Description</u>	<u>System</u>	<u>Juris.</u>	<u>Date Juris.</u>	<u>Amortization</u>	<u>Year</u>	<u>Adjusted</u>
		<u>Amount</u>	<u>Factor</u>	<u>Amount</u>	<u>Expense</u>	<u>Accruals</u>	<u>Amount</u>
[____]	<u>Individual Regulatory Asset</u>						
[____]	<u>Related Deferred Income Tax</u>						
[____]							
[____]	<u>Individual Regulatory Asset</u>						
[____]	<u>Related Deferred Income Tax</u>						
[____]							
[____]	<u>Individual Regulatory Asset</u>						
[____]	<u>Related Deferred Income Tax</u>						
	<u>Totals</u>						

Regulations

COMPANY NAME
DETAIL OF REGULATORY ACCOUNTING ADJUSTMENTS
REFLECTED IN COL. (--) OF SCHEDULES -- AND --

Exhibit No.: _____
Witness: _____
Schedule 16

ADJ.
NO.

ADJUSTMENT

AMOUNT

INCOME ADJUSTMENTS

OPERATING REVENUE ADJUSTMENTS

OPERATION AND MAINTENANCE [~~EXPENSES~~ EXPENSE]
ADJUSTMENTS

DEPRECIATION EXPENSE ADJUSTMENTS

INCOME TAXES ADJUSTMENTS

TAXES OTHER THAN INCOME ADJUSTMENTS

GAIN ON PROPERTY DISPOSITION ADJUSTMENTS

CHARITABLE DONATIONS ADJUSTMENTS

OTHER INTEREST EXPENSE/(INCOME) ADJUSTMENTS

INTEREST EXPENSE ADJUSTMENTS

PREFERRED DIVIDENDS ADJUSTMENTS

JDC CAPITAL EXPENSE ADJUSTMENTS

ALLOWANCE FOR WORKING CAPITAL ADJUSTMENTS

ELECTRIC PLANT IN SERVICE ADJUSTMENTS

PLANT HELD FOR FUTURE USE ADJUSTMENTS

CONSTRUCTION WORK IN PROGRESS ADJUSTMENTS

ACCUMULATED DEPRECIATION AND AMORTIZATION
ADJUSTMENTS

OTHER RATE BASE DEDUCTIONS ADJUSTMENTS

COMMON EQUITY CAPITAL ADJUSTMENTS

COMPANY NAME
LEAD/LAG CASH WORKING CAPITAL CALCULATION - EARNINGS TEST
FOR THE YEAR ENDED --/--/--
SUPPORTING COLUMN -- OF SCHEDULE --

Exhibit
No.: _____
Witness: _____
Schedule 17

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<u>Virginia</u>	<u>Per Books</u>	<u>Amounts</u>	<u>Average</u>	<u>Expense</u>	<u>Revenue</u>	<u>Net</u>	<u>Working</u>
<u>Juris.</u>	<u>Regulatory</u>	<u>After</u>	<u>Daily</u>	<u>(Lead)/Lag</u>	<u>Lag</u>	<u>(Lead)/Lag</u>	<u>Capital</u>
<u>Per</u>	<u>Accounting</u>	<u>Adj.</u>	<u>Amount</u>	<u>Days</u>	<u>Lag</u>	<u>Days</u>	<u>(Provided)/</u>
<u>Books</u>	<u>Adjustments</u>						<u>Required</u>
<u>Amounts</u>							

OPERATING EXPENSES

O&M Expenses:

- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Deferred Fuel
- Payroll Expense
- Benefits and Pension Expense
- OPEB Expense
- Regulatory Asset Amortization Expense
- Uncollectible Expense
- Stores Issues
- Stored Undistributed
- Accrued Vacation Expense
- Prepaid Insurance Amortization Expense
- Worker's Compensation Expense
- Directors' Deferred Compensation Exp.
- Storm Damage Expense
- Transition Cost Expense
- Restructuring Expense
- Contingent Liabilities
- Other O&M Expenses

Depreciation Expense:

- Depreciation Expense
- Amortization Expense
- Amortization Expense
- Amortization of Regulatory Assets

Federal Income Taxes:

- Current
- Deferred

Regulations

DFIT on items excluded from Rate Base

Deferred ITC

State Income Tax Expense

Taxes Other Than Income:

Property Tax Expense

Valuation Tax Expense

Business and Occupation Tax Expense

Payroll Tax Expense

Other Taxes

AFUDC

Gain/Loss of Disposition of Property

Charitable Donations

Interest on Customer Deposits

Other Expense/Income (A-t-1)

Other Income/Expense (B-t-1)

Interest Expense

Preferred Dividends

JDC Expense

Income Available for Common Equity

Totals

Plus: Customer Utility Taxes

BALANCE SHEET ITEMS

TOTAL CASH WORKING CAPITAL

COMPANY NAME
BALANCE SHEET ANALYSIS - EARNINGS TEST
FOR THE THIRTEEN MONTHS ENDED --/--/--

Exhibit No.:
Witness: _____
Schedule 18

Additional Uses of Average Cash Working Capital

<u>Account</u> <u>Number</u>	<u>Account</u> <u>Title</u>	<u>Month</u> <u>Prior</u> <u>to Test</u> <u>Yr.</u>	<u>First</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Second</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Third</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Fourth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Fifth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Sixth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Seventh</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Eighth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Ninth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Tenth</u> <u>Month</u> <u>of test</u> <u>Yr.</u>	<u>Eleventh</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Twelfth</u> <u>Month</u> <u>of Test</u> <u>Yr.</u>	<u>Thirteen</u> <u>Month</u> <u>Average</u>
	<u>Individual</u> <u>Uses of</u> <u>Cash</u> <u>Working</u> <u>Capital</u>														
	<u>Individual</u> <u>Uses of</u> <u>Cash</u> <u>Working</u> <u>Capital</u>														

Individual
Uses of
Cash
Working
Capital

Individual
Uses of
Cash
Working
Capital

Total Additional Uses
of Average Cash
Working Capital

Additional Sources of
Average Cash
Working Capital

Account Account
Number Title

Thirteen
Month
Average

Individual
Sources
of Cash
Working
Capital

Individual
Sources
of Cash
Working
Capital

Individual
Sources
of Cash
Working
Capital

Individual
Sources
of Cash
Working
Capital

Total Additional
Sources of Average
Cash Working Capital

Net (Source)/Use of
Average Cash
Working Capital

Regulations

COMPANY NAME
RATE OF RETURN STATEMENT - PER BOOKS
FOR THE TEST YEAR ENDED --/--/--

Exhibit No.: _____
 Witness: _____
 Schedule 19

	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>
<u>Line No.</u>	<u>Total Company</u>	<u>Non-Jurisdictional</u>	<u>Virginia Cost of Service Amount (1)-(2)</u>	<u>Retail Transmission</u>	<u>Generation</u>	<u>Distribution</u>	<u>Virginia Jurisdictional Gen. and Distr. Cost of Service (5)+(6)</u>
<u>1</u>	<u>OPERATING REVENUES</u>						
<u>2</u>	<u>BASE RATE REVENUES</u>						
<u>3</u>	<u>FUEL REVENUES</u>						
<u>4</u>	<u>LATE PAYMENT FEES</u>						
<u>5</u>	<u>OTHER OPERATING REVENUES</u>						
<u>6</u>	<u>TOTAL OPERATING REVENUES</u>						
<u>7</u>	<u>OPERATING REVENUE DEDUCTIONS</u>						
<u>8</u>	<u>OPERATION & MAINTENANCE EXPENSE</u>						
<u>9</u>	<u>DEPRECIATION & AMORTIZATION</u>						
<u>10</u>	<u>FEDERAL INCOME TAXES</u>						
<u>11</u>	<u>STATE INCOME TAXES</u>						
<u>12</u>	<u>TAXES OTHER THAN INCOME TAXES</u>						
<u>13</u>	<u>GAIN/LOSS ON DISPOSITION OF PROPERTY</u>						
<u>14</u>	<u>TOTAL OPERATING REVENUE DEDUCTIONS</u>						
<u>15</u>	<u>OPERATING INCOME</u>						
<u>16</u>	<u>PLUS:</u>	<u>AFUDC</u>					
<u>17</u>	<u>LESS:</u>	<u>CHARITABLE DONATIONS</u>					
<u>18</u>		<u>INTEREST EXPENSE ON CUSTOMER DEPOSITS</u>					
<u>19</u>		<u>OTHER INTEREST EXPENSE/(INCOME)</u>					
<u>20</u>	<u>ADJUSTED OPERATING INCOME</u>						

<u>21</u>	<u>PLUS:</u>	<u>OTHER INCOME/(EXPENSE [])</u>
<u>22</u>	<u>LESS:</u>	<u>INTEREST EXPENSE</u>
<u>23</u>		<u>PREFERRED DIVIDENDS</u>
<u>24</u>		<u>JDC CAPITAL EXPENSE</u>
<u>25</u>		<u>INCOME AVAILABLE FOR COMMON EQUITY</u>
<u>26</u>		<u>ALLOWANCE FOR WORKING CAPITAL</u>
<u>27</u>	<u>PLUS:</u>	<u>NET UTILITY PLANT</u>
<u>28</u>	<u>LESS [:]</u>	<u>OTHER RATE BASE DEDUCTIONS</u>
<u>29</u>		<u>TOTAL RATE BASE</u>
<u>30</u>		<u>TOTAL CAPITAL</u>
<u>31</u>		<u>COMMON EQUITY CAPITAL</u>
<u>32</u>		<u>% RATE OF RETURN EARNED ON RATE BASE</u>
<u>33</u>		
<u>34</u>		<u>% RATE OF RETURN EARNED ON COMMON EQUITY</u>

% [RATE OF EQUITY] RETURN [EARNED ON COMMON EQUITY AUTHORIZED]

[Notes:

For utilities subject to § 56-585.1 of the Code of Virginia,] Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

Regulations

COMPANY NAME
RATE OF RETURN STATEMENT
GENERATION AND DISTRIBUTION PER BOOKS
FOR THE TEST YEAR ENDED --/--/--

Exhibit No.:
Witness:
Schedule 20

<u>Line No.</u>	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>
	<u>Virginia Juris.</u>	<u>Rate</u>	<u>Rate</u>	<u>Virginia Juris.</u>
	<u>Cost of</u>	<u>Adjustment</u>	<u>Adjustment</u>	<u>Cost of Service</u>
	<u>Service</u>	<u>Clause</u>	<u>Clause</u>	<u>Excluding Rate</u>
	<u>Including Rate</u>	<u>Pursuant to</u>	<u>Pursuant to</u>	<u>Adjustment</u>
	<u>Adjustment</u>	<u>§ 56-585.1</u>	<u>§ 56-585.1 A6</u>	<u>Clauses</u>
	<u>Clauses</u>	<u>A5 b, c or d</u>		<u>(1)-(2)-(3)</u>
1	<u>OPERATING REVENUES</u>			
2	<u>BASE RATE REVENUES</u>			
3	<u>FUEL REVENUES</u>			
4	<u>LATE PAYMENT FEES</u>			
5	<u>OTHER OPERATING REVENUES</u>			
6	<u>TOTAL OPERATING REVENUES</u>			
7	<u>OPERATING REVENUE DEDUCTIONS</u>			
8	<u>OPERATION & MAINTENANCE EXPENSE</u>			
9	<u>DEPRECIATION & AMORTIZATION</u>			
10	<u>FEDERAL INCOME TAXES</u>			
11	<u>STATE INCOME TAXES</u>			
12	<u>TAXES OTHER THAN INCOME TAXES</u>			
13	<u>(GAIN)/LOSS ON DISPOSITION OF PROPERTY</u>			
14	<u>TOTAL OPERATING REVENUE DEDUCTIONS</u>			
15	<u>OPERATING INCOME</u>			
16	<u>PLUS:</u>	<u>AFUDC</u>		
17	<u>LESS:</u>	<u>CHARITABLE DONATIONS</u>		
18		<u>INTEREST EXPENSE ON CUSTOMER DEPOSITS</u>		
19		<u>OTHER INTEREST EXPENSE/(INCOME)</u>		
20	<u>ADJUSTED OPERATING INCOME</u>			
21	<u>PLUS:</u>	<u>OTHER INCOME/(EXPENSE)</u>		
22	<u>LESS:</u>	<u>INTEREST EXPENSE</u>		
23		<u>PREFERRED DIVIDENDS</u>		

24 JDC CAPITAL EXPENSE

25 INCOME AVAILABLE FOR
COMMON EQUITY

26 ALLOWANCE FOR
WORKING CAPITAL

27 PLUS: NET UTILITY
PLANT

28 LESS: OTHER RATE
BASE DEDUCTIONS

29 TOTAL RATE BASE

30 TOTAL CAPITAL

31 COMMON EQUITY CAPITAL

32 % RATE OF RETURN
EARNED ON RATE BASE

33 % RATE OF RETURN
EARNED ON COMMON
EQUITY

34 % EQUITY RETURN
AUTHORIZED

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 19 Column (7).

COMPANY NAME
RATE OF RETURN STATEMENT
REFLECTING RATEMAKING ADJUSTMENTS
FOR THE TEST YEAR ENDED --/--/--

Exhibit No.:
Witness:
Schedule 21

	(1)	(2)	(3)	(4)	(5)
<u>LINE NO.</u>	<u>[Per</u> <u>Books]</u> <u>Virginia</u> <u>Juris.</u> <u>Cost of</u> <u>Service</u>	<u>[Regulatory</u> <u>Accounting</u> <u>Ratemaking]</u> <u>Adjustments</u>	<u>Virginia</u> <u>Jurisdictional</u> <u>Cost of Service</u> <u>after</u> <u>Adjustments</u> <u>(1)+(2)</u>	<u>[Quantification</u> <u>of Over/Under</u> <u>Earnings</u> <u>Revenue</u> <u>Requirement for</u> <u>a --% ROE]</u>	<u>[Cost of Service</u> <u>after</u> <u>Quantification</u> <u>Amounts after</u> <u>Revenue</u> <u>Requirement]</u> <u>(3)+(4)</u>
1	<u>OPERATING REVENUES</u>				
2	<u>BASE RATE REVENUES</u>				
3	<u>FUEL REVENUES</u>				
4	<u>LATE PAYMENT FEES</u>				
5	<u>OTHER OPERATING REVENUES</u>				
6	<u>TOTAL OPERATING REVENUES</u>				
7	<u>OPERATING REVENUE DEDUCTIONS</u>				
8	<u>OPERATION & MAINTENANCE EXPENSE</u>				

Regulations

9	<u>DEPRECIATION & AMORTIZATION</u>
10	<u>FEDERAL INCOME TAXES</u>
11	<u>STATE INCOME TAXES</u>
12	<u>TAXES OTHER THAN INCOME TAXES</u>
13	<u>(GAIN)/LOSS ON DISPOSITION OF PROPERTY</u>
14	<u>TOTAL OPERATING REVENUE DEDUCTIONS</u>
15	<u>OPERATING INCOME</u>
16	PLUS: <u>AFUDC</u>
17	LESS: <u>CHARITABLE DONATIONS</u>
18	<u>INTEREST EXPENSE ON CUSTOMER DEPOSITS</u>
19	<u>OTHER INTEREST EXPENSE/(INCOME)</u>
20	<u>ADJUSTED OPERATING INCOME</u>
21	PLUS: <u>OTHER INCOME/(EXPENSE)</u>
22	LESS: <u>INTEREST EXPENSE</u>
23	<u>PREFERRED DIVIDENDS</u>
24	<u>JDC CAPITAL EXPENSE</u>
25	<u>INCOME AVAILABLE FOR COMMON EQUITY</u>
26	<u>ALLOWANCE FOR WORKING CAPITAL</u>
27	PLUS: <u>NET UTILITY PLANT</u>
28	LESS: <u>OTHER RATE BASE DEDUCTIONS</u>
29	<u>TOTAL RATE BASE</u>
30	<u>TOTAL CAPITAL</u>
31	<u>COMMON EQUITY CAPITAL</u>
32	<u>% RATE OF RETURN EARNED ON RATE BASE</u>
33	<u>% RATE OF RETURN EARNED ON COMMON EQUITY</u>
34	<u>% EQUITY RETURN AUTHORIZED</u>

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 20 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 19 Column (3).

COMPANY NAME
RATE BASE STATEMENT - PER BOOKS
AS OF --/--/--

Exhibit No.:
Witness:
Schedule 22

<u>LINE</u> <u>NO.</u>	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>	<u>(5)</u>	<u>(6)</u>	<u>(7)</u>
	<u>Total</u>	<u>Non-</u>	<u>Virginia</u>	<u>Retail</u>	<u>Generation</u>	<u>Distribution</u>	<u>Virginia</u>
	<u>Company</u>	<u>Jurisdictional</u>	<u>Cost of</u>	<u>Transmission</u>	<u>Per Books</u>	<u>Per Books</u>	<u>Jurisdictional</u>
			<u>Service</u>				<u>Gen. and</u>
			<u>Amount</u>				<u>Distr. Cost of</u>
			<u>(1)-(2)</u>				<u>Service</u>
							<u>(5)+(6)</u>
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12	LESS:						
13							
14							
15							
16							
17							
18							
19							
20							
21							
22							

[Notes:

For utilities subject to § 56-585.1 of the Code of Virginia,] Column (2) nonjurisdictional shall include generation, transmission and distribution amounts attributable to nonjurisdictional customers.

Retail transmission shall not be excluded in this column.

Regulations

20VAC5-201-110. Schedules 23 through [45 28, 40 and 44] and exhibits for Chapter 201.

The following schedules and exhibits are to be used in conjunction with this chapter.

	<u>COMPANY NAME</u>			<u>Exhibit No.:</u>
	<u>RATE BASE STATEMENT - GENERATION AND DISTRIBUTION PER BOOKS AS</u>			<u>Witness:___</u>
	<u>OF --/--/--</u>			<u>Schedule 23</u>
	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>	<u>(4)</u>
	<u>Virginia Juris. Cost</u>	<u>Rate Adjustment</u>	<u>Rate Adjustment</u>	<u>Virginia Juris. Cost</u>
	<u>of Service</u>	<u>Clause Pursuant to §</u>	<u>Clause Pursuant to</u>	<u>of Service Excluding</u>
<u>LINE</u>	<u>Including Rate</u>	<u>56-585.1 A 5 b, c or d</u>	<u>§ 56-585.1 A 6</u>	<u>Rate Adjustment</u>
<u>NO.</u>	<u>Adjustment Clauses</u>			<u>Clauses (1)-(2)-(3)</u>
<u>1</u>	<u>ALLOWANCE FOR WORKING CAPITAL</u>			
<u>2</u>	<u>MATERIAL AND SUPPLIES</u>			
<u>3</u>	<u>CASH WORKING CAPITAL (LEAD LAG STUDY)</u>			
<u>4</u>	<u>DEFERRED FUEL/DEFERRED GAS NET OF FIT</u>			
<u>5</u>	<u>OTHER WORKING CAPITAL</u>			
<u>6</u>	<u>TOTAL ALLOWANCE FOR WORKING CAPITAL</u>			
<u>7</u>	<u>NET UTILITY PLANT</u>			
<u>8</u>	<u>UTILITY PLANT IN SERVICE</u>			
<u>9</u>	<u>ACQUISITION ADJUSTMENT</u>			
<u>10</u>	<u>CONSTRUCTION WORK IN PROGRESS</u>			
<u>11</u>	<u>PLANT HELD FOR FUTURE USE</u>			
<u>12</u>	<u>LESS: ACCUMULATED PROVISION FOR DEPRECIATION</u>			
<u>13</u>	<u>AND AMORTIZATION</u>			
<u>14</u>	<u>CUSTOMER ADVANCES FOR CONSTRUCTION</u>			
<u>15</u>	<u>TOTAL NET UTILITY PLANT</u>			
<u>16</u>	<u>RATE BASE DEDUCTIONS</u>			
<u>17</u>	<u>CUSTOMER DEPOSITS</u>			
<u>18</u>	<u>SUPPLIER REFUNDS</u>			
<u>19</u>	<u>ACCUMULATED DEFERRED INCOME TAXES</u>			
<u>20</u>	<u>OTHER COST FREE CAPITAL</u>			
<u>21</u>	<u>TOTAL RATE BASE DEDUCTIONS</u>			
<u>22</u>	<u>TOTAL RATE BASE</u>			

[Note:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia shall come from Schedule 22 Column (7).

COMPANY NAME
RATE BASE STATEMENT REFLECTING RATEMAKING ADJUSTMENTS
AS OF --/--/--

Exhibit No.:
Witness:
Schedule 24

<u>LINE NO.</u>	<u>(1)</u> <u>Per Books</u> <u>Virginia Juris.</u> <u>Cost of Service</u>	<u>(2)</u> <u>[Regulatory Accounting</u> <u>Ratemaking]</u> <u>Adjustments</u>	<u>(3)</u> <u>Virginia Jurisdictional</u> <u>Cost of Service after</u> <u>Adjustments (1)+(2)</u>
1	<u>ALLOWANCE FOR WORKING CAPITAL</u>		
2	<u>MATERIAL AND SUPPLIES</u>		
3	<u>CASH WORKING CAPITAL (LEAD LAG STUDY)</u>		
4	<u>DEFERRED FUEL/DEFERRED GAS NET OF FIT</u>		
5	<u>OTHER WORKING CAPITAL</u>		
6	<u>TOTAL ALLOWANCE FOR WORKING CAPITAL</u>		
7	<u>NET UTILITY PLANT</u>		
8	<u>UTILITY PLANT IN SERVICE</u>		
9	<u>ACQUISITION ADJUSTMENT</u>		
10	<u>CONSTRUCTION WORK IN PROGRESS</u>		
11	<u>PLANT HELD FOR FUTURE USE</u>		
12	<u>LESS: ACCUMULATED PROVISION FOR DEPRECIATION</u>		
13	<u>AND AMORTIZATION</u>		
14	<u>CUSTOMER ADVANCES FOR CONSTRUCTION</u>		
15	<u>TOTAL NET UTILITY PLANT</u>		
16	<u>RATE BASE DEDUCTIONS</u>		
17	<u>CUSTOMER DEPOSITS</u>		
18	<u>SUPPLIER REFUNDS</u>		
19	<u>ACCUMULATED DEFERRED INCOME TAXES</u>		
20	<u>OTHER COST FREE CAPITAL</u>		
21	<u>TOTAL RATE BASE DEDUCTIONS</u>		
22	<u>TOTAL RATE BASE</u>		

[Notes:]

Column (1) amounts for utilities subject to § 56-585.1 of the Code of Virginia [~~hall~~ shall] come from Schedule 23 Column (4) and shall exclude Rate Adjustment Clauses.

Column (1) amounts for utilities not subject to § 56-585.1 of the Code of Virginia shall come from Schedule 22 Column (3).

Regulations

COMPANY NAME
DETAIL OF RATEMAKING ADJUSTMENTS
REFLECTED IN COL. (--) OF SCHEDULES -- AND --

Exhibit No.: ___
Witness: ___
Schedule 25

<u>ADJ.</u> <u>NO.</u>	<u>ADJUSTMENT</u>	<u>AMOUNT</u>
---------------------------	-------------------	---------------

INCOME ADJUSTMENTS

OPERATING REVENUE ADJUSTMENTS
OPERATION AND MAINTENANCE EXPENSE ADJUSTMENTS
DEPRECIATION EXPENSE ADJUSTMENTS
INCOME TAX ADJUSTMENTS
TAXES OTHER THAN INCOME ADJUSTMENTS
GAIN ON PROPERTY DISPOSITION ADJUSTMENTS
CHARITABLE DONATION ADJUSTMENTS
OTHER INTEREST EXPENSE/(INCOME) ADJUSTMENTS
INTEREST EXPENSE ADJUSTMENTS
PREFERRED DIVIDENDS ADJUSTMENTS
JDC CAPITAL EXPENSE ADJUSTMENTS
ALLOWANCE FOR WORKING CAPITAL ADJUSTMENTS
ELECTRIC PLANT IN SERVICE ADJUSTMENTS
PLANT HELD FOR FUTURE USE ADJUSTMENTS
CONSTRUCTION WORK IN PROGRESS ADJUSTMENTS
ACCUMULATED DEPRECIATION AND AMORTIZATION
ADJUSTMENTS
OTHER RATE BASE DEDUCTIONS ADJUSTMENTS
COMMON EQUITY CAPITAL

[COMPANY NAME
REVENUE REQUIREMENT RECONCILIATION

Schedule 26

Revenue
Requirement

Per Books Revenue Deficiency

Capital Structure Changes

Rate Base Update

Other Rate Base Adjustments

Payroll, Benefits and Payroll Taxes

Other Business and Affiliate Charges

Storm Damage

Decommissioning

Other Revenue Adjustments

Other Miscellaneous Adjustments

Company Proposed Revenue Requirement

Note: The topics or subjects listed above are included for illustrative purposes. Applicant's schedule should include company specific topics/subjects.

[FOR ILLUSTRATIVE PURPOSES ONLY

COMPANY NAME
REVENUE REQUIREMENT RECONCILIATION
Supporting Schedule

Supporting Schedule 26

(1)	(2)	(3)	(4)	(5)	(6)	(7)
<u>Amounts</u>	<u>Net of Tax</u> <u>Overall</u> <u>Cost of</u> <u>Capital</u>	<u>Required</u> <u>AOI</u> <u>(1)*(2)</u>	<u>1-Fit Rate</u>	<u>Subtotal</u> <u>(3)*(4)</u>	<u>Gross-up</u> <u>Factor</u>	<u>Revenue</u> <u>Requirement</u> <u>(5)/(6)</u>

Per Books Revenue Deficiency

Capital Structure Items:

ROE from 11.5% to 10.5% (midpoint of range)

Capital Structure Changes

Total Capital Structure Charges

Rate Base Update:

Rate Base Update

Customer Growth

Late Payment Revenues

Depreciation Expense

Property Tax Expense

Liberalized Depreciation

Liberalized Depreciation - New Rates

Clover Allocation Factor

Accumulated Depreciation - Current Rates

Total Rate Base Update

Other Rate Base Adjustments:

Deferred Fuel at 100%

Contra-AFC Connection

Cash Working Capital on Sch. D and E

Total other Rate Base Adjustments

Payroll, Benefits and Payroll Taxes:

Employee Payroll

Fringe Benefits

Incentive Pay

OPEB Expense

Payroll Taxes

Regulations

Total Payroll, Benefits and Payroll Taxes

Storm Damage:

Storm Damage Expense & Related OT

Storm Damage Payroll Taxes

Total Storm Damage

Other Revenue Adjustments:

Transmission Service Revenues

Wholesale Contract Renegotiations

Total Other Revenue Adjustments

Other Miscellaneous Adjustments

FIT on per books JDC

FIT on other Interest and Preferred Dividends

Computer Leases

Obsolete Inventory Amortization

Nonoperating Expenses

Fuel Handling Expense

West Virginia State Income Taxes

Interest on Customer Deposits

Advertising Expense

Miscellaneous

Charitable Donations

Total Other Miscellaneous Adjustments

Company Proposed Revenue Requirement]

COMPANY NAME
LEAD/LAG CASH WORKING CAPITAL CALCULATION - ADJUSTED
FOR THE YEAR ENDED --/--/--
SUPPORTING COLUMN -- OF SCHEDULE --

Exhibit No.: _____
Witness: _____
Schedule 27

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
<u>Virginia</u>							
<u>Juris. Per</u>		<u>Amounts</u>	<u>Average</u>	<u>Expense</u>		<u>Net</u>	<u>Working Capital</u>
<u>Books</u>	<u>Rulemaking</u>	<u>After</u>	<u>Daily</u>	<u>(Lead)/Lag</u>	<u>Revenue</u>	<u>(Lead)/Lag</u>	<u>(Provided)/</u>
<u>Amounts</u>	<u>Adjustments</u>	<u>Adj.</u>	<u>Amount</u>	<u>Days</u>	<u>Lag</u>	<u>Days</u>	<u>Required</u>

OPERATING EXPENSES

O&M Expenses:

- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Fuel Clause
- Account # - Deferred Fuel
- Payroll Expense
- Benefits and Pension Expense
- OPEB Expense
- Regulatory Asset Amortization Expense
- Uncollectible Expense
- Stores Issues
- Stored Undistributed
- Accrued Vacation Expense
- Prepaid Insurance Amortization Expense
- Worker's Compensation Expense
- Directors' Deferred Compensation Exp.
- Storm Damage Expense
- Transition Cost Expense
- Restructuring Expense
- Contingent Liabilities
- Other O&M Expenses

Depreciation Expense:

- Depreciation Expense
- Amortization Expense
- Amortization Expense
- Amortization of Regulatory Assets

Federal Income Taxes:

- Current
- Deferred
- DFIT on items excluded from Rate Base
- Deferred ITC

State Income Tax Expense

Taxes Other Than Income:

- Property Tax Expense
- Valuation Tax Expense
- Business and Occupation Tax Expense
- Payroll Tax Expense
- Other Taxes

Regulations

AFUDC

Gain/Loss of Disposition of Property

Charitable Donations

Interest on Customer Deposits

Other Expense/Income (A-t-l)

Other Income/Expense (B-t-l)

Interest Expense

Preferred Dividends

JDC Expense

Income Available for Common Equity

Totals

Plus: Customer Utility Taxes

BALANCE SHEET ITEMS

TOTAL CASH WORKING CAPITAL

COMPANY NAME
BALANCE SHEET ANALYSIS – ADJUSTED
AS OF --/--/--

Exhibit No.:
Witness:
Schedule 28

Additional Uses of Cash Working Capital

<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>	<u>Sixth</u>	<u>Seventh</u>	<u>Eighth</u>	<u>Ninth</u>	<u>Tenth</u>	<u>Eleventh</u>	<u>Twelfth</u>	<u>Thirteen</u>	
<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Month</u>	<u>Average</u>

<u>Account</u>	<u>Account</u>
<u>Number</u>	<u>Title</u>

Individual Uses of Cash Working Capital

Individual Uses of Cash Working Capital

Individual Uses of Cash Working Capital

Individual Uses of Cash Working Capital

Total Additional Uses of Average Cash Working Capital

Additional Sources of Average Cash Working Capital

<u>Account</u>	<u>Account</u>
<u>Number</u>	<u>Title</u>

Individual Sources of Cash Working Capital

Thirteen
Month
Average

Individual Sources of Cash Working Capital

Individual Sources of Cash Working Capital

Individual Sources of Cash Working Capital

Total Additional Sources of [Average] Cash Working Capital

Net (Source)/Use of [Average] Cash Working Capital

COMPANY NAME JURISDICTIONAL COST OF SERVICE STUDY (METHODOLOGY) COST ALLOCATION STUDY CASE NO. PUE-----								Exhibit No.: Witness: Schedule 40 A and B	
(1)	(2)	(3)	[(4)	[(5)	[(6)	[(7)	[(8)		
Line No.	Description	Total System	Virginia Non-Juris.	Virginia Per Books Amount (1)-(2)	Rate Adjustment Clause Pursuant to § 56-585.1 A4]	Rate Adjustment Clause Pursuant to § 56-585.1 A5, b, c or d]	Rate Adjustment Clause Pursuant to § 56-585.1 A6]	Virginia Commission Jurisdictional Regulated Amount (3) (4) (5) (6)]	Allocation Basis]
<u>10</u>	<u>Operating Revenues</u>								
<u>20</u>									
<u>30</u>	<u>Operating [Expenses and Maintenance Expense]</u>								
<u>40</u>	<u>Depreciation [Expenses Expense]</u>								
<u>50</u>	<u>Amortization</u>								
<u>60</u>	<u>[Federal] Income Taxes</u>								
<u>70</u>	<u>State Income Taxes</u>								
<u>80</u>	<u>Taxes Other than Income</u>								
<u>90</u>									
<u>100</u>	<u>Total Operating [Expenses and Maintenance Expense]</u>								
<u>110</u>									
<u>120</u>	<u>Net Operating Income</u>								
<u>130</u>									
<u>140</u>	<u>Adjustments to Operating Income</u>								
<u>150</u>									
<u>160</u>	<u>Add: AFUDC</u>								
<u>170</u>	<u>Less: Charitable Donations</u>								
<u>180</u>	<u>Interest Exp. - Customer Dep.</u>								
<u>190</u>									
<u>200</u>	<u>Adjusted Net Operating Income</u>								

Regulations

210
 220 Rate Base
 230
 240 ROR Earned on Rate Base

		<u>COMPANY NAME</u>					<u>Exhibit No.:</u>	
<u>CLASS COST OF SERVICE STUDY (METHODOLOGY) COST ALLOCATION STUDY</u>		<u>CASE NO. PUE-----</u>					<u>Witness:</u>	
		(1)	(2)	(3)	(4)	(5)	(6)	(7)
<u>Line</u>	<u>Description</u>	<u>Virginia</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>	<u>Class</u>	<u>Allocation</u>
<u>No.</u>		<u>Juris.</u>						<u>Basis</u>
10	<u>Operating Revenues</u>							
20								
30	<u>Operating [Expenses Expense]</u>							
40	<u>Depreciation [Expenses Expense]</u>							
50	<u>Amortization</u>							
60	<u>[Federal] Income Taxes</u>							
70	<u>State Income Taxes</u>							
80	<u>Taxes Other than Income</u>							
90								
100	<u>Total Operating [Expenses and Maintenance Expense]</u>							
110								
120	<u>Net Operating Income</u>							
130								
140	<u>Adjustments to Operating Income</u>							
150								
160	<u>Add: AFUDC</u>							
170	<u>Less: Charitable Donations</u>							
180	<u>Interest Exp. - Customer Dep.</u>							
190								
200	<u>Adjusted Net Operating Income</u>							
210								
220	<u>Rate Base</u>							
230								
240	<u>ROR Earned on Rate Base</u>							

[COMPANY NAME
PER BOOKS DEFERRAL RECORDED] PURSUANT TO
 [§§ 56-249.6, 56-582 AND 58.1-3833 OF THE CODE OF VIRGINIA
FOR THE YEAR ENDED --/--

Exhibit No.:
Witness:
Schedule 44

<u>LINE NO.</u>	<u>MONTH</u>	<u>A/C NO. DEBITS</u>	<u>A/C NO. CREDITS</u>	<u>A/C NO. BALANCE</u>
<u>1</u>				<u>BEGINNING BALANCE</u>
<u>2</u>				
<u>3</u>				
<u>4</u>				
<u>5</u>				
<u>6</u>				
<u>7</u>				
<u>8</u>				
<u>9</u>				
<u>10</u>				
<u>11</u>				
<u>12</u>				
<u>13</u>				
<u>14</u>				<u>ENDING BALANCE]</u>

COMPANY NAME
RATE ADJUSTMENT CLAUSES PURSUANT TO
§ 56-585.1 A4, A5 AND/OR A6 OF THE CODE OF VIRGINIA FOR
THE YEAR ENDED --/--

Exhibit No.:
Witness:
Schedule [45 44]

<u>LINE NO.</u>	<u>MONTH</u>	<u>A/C NO. DEBITS</u>	<u>A/C NO. CREDITS</u>	<u>A/C NO. BALANCE</u>
<u>1</u>				<u>BEGINNING BALANCE</u>
<u>2</u>				
<u>3</u>				
<u>4</u>				
<u>5</u>				
<u>6</u>				
<u>7</u>				
<u>8</u>				
<u>9</u>				
<u>10</u>				
<u>11</u>				
<u>12</u>				

Regulations

13

14 ENDING BALANCE

20VAC5-403-70. Exemptions.

A small telephone company subject to the Small Investor-Owned Telephone Utility Act (§ 56-531 et seq. of the Code of Virginia) shall be exempt, for all purposes, from the Rules Governing Utility Rate Increase Applications and Annual Informational Filings, ~~20VAC5-200-30~~ 20VAC5-201, as they may be modified from time to time.

VA.R. Doc. No. R08-1134; Filed December 16, 2008, 11:45 a.m.

Reproposed 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.

Titles of Regulations: 20VAC5-427. Rules for Local Exchange Telecommunications Company Service Quality Standards (repealing 20VAC5-427-10 through 20VAC5-427-170).

20VAC5-428. Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality (adding 20VAC5-428-10 through 20VAC5-428-120).

Statutory Authority: §§ 12.1-13, 56-35, 56-36, 56-234, 56-234.4, 56-246 and 56-479 of the Code of Virginia.

Public Hearing Information:

March 10, 2009 - 10 a.m. - State Corporation Commission Courtroom, 2nd Floor, 1300 East Main Street, Richmond, VA

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

Agency Contact: Steven Bradley, Assistant Director, Division of Communications, State Corporation Commission, P.O. Box 1197, 1300 East Main Street, Richmond, VA 23218, telephone (804) 371-9674, FAX (804) 371-9069, or email steven.bradley@scc.virginia.gov.

Summary:

The regulations apply to all certified local exchange carriers and prescribe a minimum acceptable level of quality of service under normal operating conditions. They also set forth enforcement and sanction processes to address any concern for inadequate service. The revised proposed regulations require a company with 10,000 or more network access lines to file quarterly performance reports, which can be made publicly available, but only if it fails to meet a given standard for

one or more months. In addition to the four performance standards originally proposed, the commission now seeks comment on three additional performance standards, which include repeat report rate, outside plant trouble report rate, and central office trouble report rate. The revised proposed regulations would eliminate the originally proposed rule relating to the network relocation and rearrangement in favor of an industry working group.

AT RICHMOND, DECEMBER 15, 2008

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

CASE NO. PUC-2008-00047

Ex Parte: Revision of Rules for
Local Exchange Telecommunications
Company Service Quality Standards

SECOND ORDER FOR NOTICE AND HEARING

On June 17, 2008, the State Corporation Commission ("Commission") issued an Order Prescribing Notice, Scheduling Hearing, and Inviting Comments ("Order Prescribing Notice") that established this proceeding for the purpose of: (1) repealing the current Rules for Local Exchange Telecommunications Company Service Quality Standards, 20 VAC 5-427-10 *et seq.*; and (2) considering the adoption of new Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality ("Proposed Rules"), 20 VAC 5-428-10 *et seq.* The Commission provided for publication of the Proposed Rules, permitted interested persons to submit written and electronic comments thereon, directed the Commission's Staff ("Staff") to file a response to such comments, and scheduled a public hearing for September 25, 2008.

On September 15, 2008, the Staff filed a response to the written and electronic comments submitted in this proceeding. As part of such response, the Staff provided a summary of each comment and noted that comments were received from the following: Office of the Attorney General's Division of Consumer Counsel; Communications Workers of America; Utility Professional Services, Inc. ("Utility Pros"); Nancy Anderson; Ellen Boone; Alexander Chinoy; Vincent Cody; Curtis Darlington; M. Timothy Firebaugh; Arthur Garrison; Patrick Geraghty; Richard Hampton; Joyce Hann; Peter Hudik; James R. Jones; Elizabeth Piaskecki; Gerald T. Yost; John T. O'Mara; Cox Virginia Telcom ("Cox"); Virginia Cable Telecommunications Association ("VCTA"); AT&T Communications of Virginia and TCG Virginia ("AT&T"); Cavalier Telephone ("Cavalier") and XO Virginia; Central Telephone Company and United Telephone

Southeast ("Embarq"); NTELOS Telephone Company, Roanoke and Botetourt Telephone, NTELOS Network, and R&B Network ("NTELOS"); Virginia Telecommunications Industry Association ("VTIA"); Verizon; and PAETEC Communications and US LEC Corp. ("PAETEC").

On September 25, 2008, the Commission held a public hearing at which it received comments from persons on behalf of the following: Utility Pros; Embarq; VCTA; Cavalier; Cox; VTIA; Verizon; MGW Telephone Company; Shentel; and the Staff.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Code of Virginia

We find as a matter of law – and no commenter disputed – that this Commission has the legal authority to promulgate minimum service quality standards for local exchange telecommunications carriers ("LECs") operating in the Commonwealth of Virginia. As noted in Rule 10 A,¹ the Proposed Rules: (1) "[are] promulgated pursuant to §§ 56-35, 56-36, 56-234, 56-234.4, 56-246, 56-247, 56-249, and 56-479 of the Code of Virginia ["Code"] and shall apply to [LECs] providing local exchange telecommunications services within the Commonwealth of Virginia;" and (2) "prescribe[] the minimum acceptable level of service quality under normal operating conditions."

Some of the commenters, however, asserted that service quality rules are not necessary but, rather, should be left to the marketplace.² For example, Verizon asserts that the language of Va. Code § 56-265.4:4 B 3 (ii) directing the Commission to "require equity in the treatment of certified [LECs] so as to encourage competition based on service, quality and price differences between alternative providers" essentially means that we should not place regulatory service quality standards on LECs that are more burdensome than those placed on Voice over Internet Protocol ("VoIP") and wireless providers—both of which are not subject to the Commission's jurisdiction but, nevertheless, may be competitors to a LEC's landline services.³ In effect, therefore, Verizon urges us to read Va. Code § 56-265.4:4 B 3 (ii) to say that service quality regulation by the Commission cannot exceed comparable federal service quality regulation of VoIP and wireless providers. We disagree. The General Assembly could have explicitly amended this Code provision to mirror the federal regulatory regime, but we do not interpret the plain language of this statute to restrict service quality in the Commonwealth in such a way.⁴

We do not dispute that landline service from LECs, as a category, is losing market share to other forms of telephone service, including VoIP and wireless. Indeed, we have recognized this marketplace reality in recent orders.⁵ We acknowledge that VoIP, cable and wireless providers do not face the same state regulation as LECs do. We find, however,

that as a matter of law the General Assembly has not directed this Commission to leave service quality standards for landline service from LECs solely to the marketplace.

Finally, protecting the public health and safety and protecting economic well-being should be priorities in ensuring minimum service quality. We note that public health and safety issues differentiate landline LEC service from VoIP and wireless, which are under federal jurisdiction. Although the provision of "reasonably adequate service and facilities" is not explicitly limited to public health and safety or economic impacts on customers under the statute, and we do not limit our inquiry to those issues here, we find that it is reasonable to examine further the impact on public health and safety, as well as potential economic impacts, in adopting specific service quality standards.

Revised Proposed Rules

Based on comments received on the proposed new service quality rules, and having affirmed our decision to promulgate new service quality standards pursuant to the Commission's statutory authority, we request additional information on specific performance standards and on revisions to the Proposed Rules. Specifically, attached hereto are modifications to the Proposed Rules ("Revised Proposed Rules"), and we seek additional comments thereon. Although we request comment on these revised rules, we clarify that provisions included, or excluded, from the Revised Proposed Rules do not represent final findings by the Commission in this proceeding as to such provisions.

While we do not discuss herein each of the changes contemplated by the Revised Proposed Rules, we note that the comments received to date have prompted a number of questions as to Rule 90.⁶ Revised Proposed Rule 90 addresses specific performance standards applicable to, among other things, restoration of out-of-service trouble reports, completion of installation service orders, and field dispatch for installation and repair commitments. We seek comments on what the specific minimum standards should be for these items, especially in light of our finding that priority should be placed on protecting the public health and safety and minimizing economic impacts of service interruptions in establishing minimum service quality standards. For example, upon what basis should the Commission adopt the specific metrics for out-of-service trouble reports, and/or in what manner should such metrics be modified? In addition, the Commission seeks comment on Revised Proposed Rules 90 B (1) and (3), pertaining to out-of-service trouble reports and installation service orders, that remove from noncompliance a time interval that exceeds the required standard when it has been caused by any customer, or when it has been explicitly requested or accepted by a residential customer. Our revisions raise the issue of whether, for business customers, restoration or installation of service that is not done in a timely manner

Regulations

can cause serious economic harm to the business customer, particularly small businesses.

Further, and in response to comments submitted by certain LECs regarding the integrity of a LEC's network, the Revised Proposed Rules also include provisions regarding repeat trouble reports, central office trouble reports, and outside plant trouble reports. Also in response to comments by certain LECs, the quarterly performance reports required by the Revised Proposed Rules only apply for a quarter in which the LEC failed to meet a standard.

Moreover, Proposed Rule 40, relating to network relocation and rearrangement, has been deleted from the Revised Proposed Rules about which we are now seeking additional comment. We acknowledge that developers have expressed frustration with respect to the receipt of prompt, detailed estimates associated with the relocation or rearrangement of LEC facilities. However, due to the complexity and breadth of the issues involved in this proceeding, we seek comment on whether it is advisable to limit the present rulemaking to the consideration of service quality subject matter already addressed in the Current Rules and whether we should direct the Staff to convene an industry working group, including representatives from Virginia's electric utilities, to draft guidelines pertaining to the relocation or rearrangement of utility facilities for the Commission's consideration.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) The Commission's Division of Information Resources shall forward the revised proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality (Chapter 428), Appendix A herein, to the Registrar of Virginia for publication in the Virginia Register of Regulations.

(2) The Commission's Division of Information Resources shall make a downloadable version of the revised proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality, Appendix A, available for access by the public at the Commission's website, <http://www.scc.virginia.gov/case>. The Clerk of the Commission shall make a copy of the revised proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality available for public inspection and provide a copy, free of charge, in response to any written request for one.

(3) Interested persons wishing to submit written comments regarding the revised proposed Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality shall file such written comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, on or before February 5, 2009, making reference to Case No. PUC-2008-00047. Interested persons desiring to submit comments

electronically by this date may do so by following instructions found on the Commission's website, <http://www.scc.virginia.gov/case>.

(4) On or before March 2, 2009, the Commission Staff is directed to file a Report on the issues raised in this Order and in response to the comments that are filed with the Commission.

(5) The Commission shall conduct a hearing in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on March 10, 2009, to consider the adoption of the Revised Proposed Rules.

(6) On or before December 31, 2008, the Commission's Division of Information Resources shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia.

NOTICE TO THE PUBLIC OF A PROCEEDING TO
ADOPT REVISED RULES GOVERNING LOCAL
EXCHANGE TELECOMMUNICATIONS CARRIER
RETAIL SERVICE QUALITY CASE NO. PUC-2008-
00047

By Order dated September 30, 2005, in Case No. PUC-2003-00110, the State Corporation Commission ("Commission") adopted Rules for Telecommunications Company Service Quality Standards ("Current Rules") (20 VAC 5-427-10). Thereafter, by Order dated June 17, 2008, the Commission indicated that it was considering the repeal of the Current Rules and the adoption of a revised set of rules styled Rules Governing Local Exchange Telecommunications Carrier Retail Service Quality ("Proposed Rules"). In accordance with the Order dated June 17, 2008, Commission received written comments regarding, and conducted a hearing associated with, the Proposed Rules.

Upon review of the previously submitted written comments and consideration of statements made at the hearing on September 25, 2008, the Commission is now considering revisions to the Proposed Rules. Interested parties may obtain a copy of the revised Proposed Rules by visiting the Commission's [website](http://www.scc.virginia.gov/case), <http://www.scc.virginia.gov/case>, or by requesting a copy from the Clerk of the State Corporation Commission. The Clerk's office will provide a copy of the revised Proposed Rules to any interested party, free of charge, in response to any written request for one.

Interested persons wishing to submit written comments regarding the revised Proposed Rules

shall file such written comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, on or before February 5, 2009, making reference to Case No. PUC-2008-00047. Interested persons desiring to submit comments electronically may do so by following instructions found on the Commission's website, <http://www.scc.virginia.gov/case>.

A public hearing to consider the Revised Proposed Rules shall be convened at 10:00 a.m. on March 10, 2009, in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia. Any person desiring to comment orally at the public hearing need only appear at the Commission's Second Floor Courtroom in the Tyler Building at the address set forth above prior to 9:45 a.m. on the day of the hearing and register a request to speak with the Commission's bailiff.

VIRGINIA STATE CORPORATION COMMISSION

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; all local exchange carriers certificated in Virginia as set out in Appendix B; and the Commission's Office of General Counsel and the Division of Communications.

¹ References herein to a particular proposed rule will be shortened to wit: "Rule 10 A" is Proposed Rule 20 VAC 5-428-10 A.

² See, e.g., Verizon August 21, 2008 Comments at 12-13; AT&T August 21, 2008 Comments at 2; Tr. at 55-56. Despite this assertion, however, no commenter has identified a specific Code provision precluding the Commission from adopting service quality rules. See, e.g., Tr. at 55 (Statement of Lydia R. Pulley, Esquire, on behalf of Verizon: "It is not Verizon's position that the General Assembly stripped the Commission of the ability to adopt service quality rules or service quality standards.")

³ See, e.g., Verizon's August 21, 2008 Comments at 7; Tr. 58-60. Both VoIP and wireless are subject to federal rather than state jurisdiction and the General Assembly has specifically precluded the Commission from regulating VoIP services. See Va. Code § 56-1.3.

⁴ Section 56-235.5 of the Code, pertaining to "alternative" forms of telephone company regulation, serves as additional support for the Commission's retained authority to regulate service quality. Section 56-235.5 B (ii) provides that the Commission should consider service quality when deciding whether to approve a LEC's alternative regulatory plan. Similarly, § 56-235.5 D (ii) provides that the Commission may alter or revoke the terms of an alternative regulatory plan if it finds that "the quality of local exchange telephone service has deteriorated or will deteriorate to the

point that the public interest will not be served by continuation of the alternative form of regulation."

⁵ See Application of Verizon Virginia Inc. and Verizon South Inc. for a Determination that Retail Services are Competitive and Deregulating and Detariffing the Same, Case No. PUC-2007-00007, 2007 S.C.C. Ann. Rep. 225 (Dec. 14, 2007).

⁶ A number of revisions to the Rules, which are suggested by various commenters and not opposed by the Staff, have been included in the Revised Proposed Rules.

CHAPTER 428
RULES GOVERNING LOCAL EXCHANGE
TELECOMMUNICATIONS CARRIER RETAIL SERVICE
QUALITY

20VAC5-428-10. Applicability; definitions.

A. This chapter is promulgated pursuant to §§ 56-35, 56-36, 56-234, 56-234.4, 56-246, 56-247, 56-249, and 56-479 of the Code of Virginia and shall apply to local exchange carriers (LECs) providing local exchange telecommunications services within the Commonwealth of Virginia. This chapter prescribes the minimum acceptable level of service quality under normal operating conditions. The commission may, after investigation and at its discretion, suspend application of this chapter during force majeure events, which include natural disaster, severe storm, flood, work stoppage, civil unrest, major transportation disruptions, or any other catastrophic events beyond the control of a LEC.

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

"Automated answering system" means a system where customer calls are received and directed to a live agent or an automated transaction system.

"Automated transaction system" means a system where customer transactions can be completed without the assistance of a live agent, and include the option to reach a live agent before the completion of an automated transaction.

"Central office" means a LEC-operated switching system, including remote switches and associated transmission equipment.

"Central office serving area" means the geographic area in which local service is provided by a LEC's central office and associated outside plant.

"Commission" means the Virginia State Corporation Commission.

"Customer" means any person, firm, partnership, corporation, municipality, cooperative, organization, or governmental agency that is an end user [or the authorized agent of an end user] of local exchange telecommunications services under the jurisdiction of the commission.

Regulations

"Customer call center" means any functional entity that accepts customer calls pertaining to service orders, billing inquiries, repair, and any other related requests.

"Emergency" means a sudden or unexpected occurrence involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services.

"Local exchange carrier (LEC)" means a certificated provider of local exchange telecommunications services, excluding LECs subject to Chapter 16 (§ 56-485 et seq.) of Title 56 of the Code of Virginia.

"Local exchange telecommunications services" means local exchange telephone service as defined by § 56-1 of the Code of Virginia.

"Major service outage" means any network condition that causes 1,000 or more customers to be out of service for 30 or more minutes; causes an unplanned outage of, or completely isolates, a central office for 30 or more minutes; or disrupts 911 emergency call processing for any period.

"Network" means a system of central offices and associated outside plant.

"Network access line (NAL)" means a customer dial tone line, or its equivalent, that provides access to the public telecommunications network.

"Out of service" means a network service condition causing an inability to complete an incoming or outgoing call or any other condition that causes a connected call to be incomprehensible.

"Outside plant" means the network facilities not included in the definition of central office including, but not limited to, copper cable, fiber optic cable, coaxial cable, terminals, pedestals, load coils, or any other equipment normally associated with interoffice, feeder, and distribution facilities up to and including the rate demarcation point.

"Rate demarcation point" means the point at which a LEC's network ends and a customer's wiring or facilities begin.

["Repeat report" means a customer reported trouble that is received by a LEC within 30 days of another trouble report on the same NAL.]

"Speed of answer interval (SAI)" means the period of time following the completion of direct dialing, or upon completion of a customer's final selection or response within an automated answering system, and lasting until the call is answered by a live agent or is abandoned by the customer or the LEC. In the case of automated transactions where a customer opts to speak to a live agent, the SAI is the period of time following the customer opting to speak to a live agent until the call is answered by a live agent or is abandoned by the customer or the LEC. A call is considered to have been answered when a live agent is ready to render assistance.

"Staff" means the commission's Division of Communications and associated personnel.

"Trouble" means an impairment of a LEC's network.

"Trouble report" means an initial oral or written notice, including voice mail and email, to any LEC employee or agent of a condition that affects or may affect network service.

20VAC5-428-20. Private property restoration.

A LEC, whenever it disturbs private property during the course of construction or maintenance operations, shall, except when otherwise specified or governed by easement or agreement, [make every reasonable effort to] restore the private property to a condition that is at least as good as that which existed prior to the disturbance [once all work is completed].

20VAC5-428-30. Availability and retention of records.

A. A LEC shall provide to the commission or staff, upon request, all records, reports, and other information required to determine compliance with this chapter.

B. A LEC shall retain records relevant to this chapter for a minimum of two years.

C. A LEC shall retain customer billing records for a minimum of three years to permit the commission or staff to investigate and resolve billing complaints.

20VAC5-428-40. [~~Routine network relocation and rearrangement. (Reserved.)~~]

[~~Upon the receipt of a bona fide request for the routine relocation or rearrangement of its network facilities, a LEC shall provide the requesting party a detailed, itemized written good faith cost estimate, or a written work plan if no charges are applicable, within 45 days, unless otherwise agreed to by the requestor. Upon the requestor's acceptance of the cost estimate or work plan, a LEC shall complete the relocation or rearrangement work within 60 days, unless otherwise agreed to by the requestor.]~~

20VAC5-428-50. Trouble report availability.

A. A LEC shall accept [~~and~~,] acknowledge [, and record] trouble reports of an emergency nature at all times through automated or live means.

B. A LEC shall take immediate action to clear trouble reports of an emergency nature.

20VAC5-428-60. Service outage reporting.

A. A LEC shall advise the staff of a major service outage on the same day as the outage occurs. If the outage occurs outside of the commission's normal business hours, a LEC shall advise the staff [~~via voice mail and email~~ at the beginning of the next business day].

B. A LEC shall submit to the staff a major service outage report by the end of the next business day following the [end of the] outage and shall include the following information:

1. The central office, remote switch, or other network facility involved;
2. The date and estimated time of commencement of the outage;
3. The geographic area affected;
4. The estimated number of customers affected;
5. The types of services affected;
6. The duration of the outage (e.g., time elapsed from the commencement of the outage until estimated restoration of full service); and
7. The apparent or known cause or causes of the outage, including the name and type of equipment involved and the specific part of the network affected, and methods used to restore service.

20VAC5-428-70. Commission complaints.

A. When the staff informs a LEC of an out-of-service commission complaint, that LEC shall restore the affected service within 24 hours of the report, unless an extension is granted by the staff.

B. When the staff informs a LEC of a non-out-of-service commission complaint, the LEC shall resolve the complaint within 10 business days, unless an extension is granted by the staff.

20VAC5-428-80. Printed directories.

[A.] A LEC shall publish printed directories or cause its customers' listing information to be published in printed directories at yearly intervals.

[B. A LEC responsible for publishing a directory shall make every reasonable effort to correct directory errors and to resolve directory disputes in a timely and efficient manner. A LEC responsible for directory publication may be required by the commission to postpone publication depending upon the nature and severity of a complaint. A LEC responsible for publishing a directory includes, but is not limited to, a LEC that publishes directories, causes directories to be published, or provides customer information for inclusion in directories.]

20VAC5-428-90. Network and customer care service quality and reporting.

A. A LEC with 10,000 or more NALs shall file quarterly performance reports showing monthly results on a statewide basis for the performance standards contained in subsection B of this section [for any quarter in which it failed to meet a standard for one or more months]. The quarterly reports shall

be filed no later than the 15th day of the month following the close of the preceding quarter. The reports and the data they contain shall not be deemed confidential and shall be subject to commission audit. A LEC may request the commission to exempt it from the filing of quarterly reports by demonstrating that its services, in whole or in part, are provided through the resale or lease of another LEC's services or facilities over which it has no direct control.

B. A LEC shall comply with the following performance standards:

1. A LEC shall restore no less than 80% of out-of-service trouble reports within 24 hours, and no less than 95% within 48 hours, per calendar month, on a statewide basis, excluding Sundays and LEC-recognized holidays. A LEC shall calculate its results by dividing the number of out-of-service customer trouble reports restored within 24 hours and 48 hours respectively in the given month by the number of out-of-service customer trouble reports received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage. [A LEC may exclude (i) customer caused delays, and (ii) extended intervals that are explicitly accepted or requested by residential customers; a LEC shall submit to the commission's Division of Communications a satisfactory description of the criteria it will apply to determine an explicit acceptance or request by a residential customer and of the method it will employ to record such explicit acceptance or request.]

2. A LEC shall answer calls to its customer call centers with an average SAI of no greater than 60 seconds per calendar month. A LEC shall calculate its results by dividing the cumulative SAI in seconds in the given month by the number of calls answered by a live agent in the given month. A LEC shall exclude from its calculation customer-initiated web transactions and customer-initiated automated transactions.

3. A LEC shall complete no less than 90% of installation service orders within five business days of a customer's request, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation service orders completed within five days in the given month by the number of service orders received in the given month. The quotient is then multiplied by 100 to produce the result as a percentage. A LEC may exclude [~~customer requested~~] extended intervals [that are explicitly accepted or requested by residential customers], customer-caused installation delays, and service orders for the installation of more than five NALs at one customer location [; a LEC shall submit to the commission's Division of Communications a satisfactory description of the criteria it will apply to determine an explicit acceptance or request by a residential customer and of the method it will employ to record such explicit acceptance or request. A LEC may exclude installation service orders that involve

Regulations

porting telephone numbers, the delivery of which has been delayed by another LEC].

4. A LEC shall meet no less than 90% of installation and repair commitments requiring a field dispatch, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of installation and repair commitments met in the given month by the number of commitments made in the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

[5. A LEC shall not exceed a 16% report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of repeat reports in the given month by the number of trouble reports cleared in the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

6. A LEC shall not exceed a 0.35% central office trouble report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of central office-related trouble reports in the given month by the number of NALs at the end of the given month. The quotient is then multiplied by 100 to produce the result as a percentage.

7. A LEC shall not exceed a 3.0% outside plant trouble report rate, per calendar month, on a statewide basis. A LEC shall calculate its results by dividing the number of outside plant-related trouble reports in the given month by the number of NALs at the end of the given month. The quotient is then multiplied by 100 to produce the result as a percentage.]

C. Notwithstanding that quarterly performance reports are compiled on a statewide basis, the commission may, in its discretion, direct that analogous reports be filed to assure that LECs comply with the performance standards set out in subdivisions B 1, B 3, [~~and~~] B 4 [, B 5, B 6, and B 7] of this section, for any individual central office serving area of any LEC. [The commission also may direct that additional reports be filed to provide information, to be prescribed by the commission, not included in the quarterly performance reports.] A LEC's failure to comply with the performance standards set out in subdivisions B 1, B 3, [~~and~~] B 4 [, B 5, B 6, and B 7] for any individual central office serving area may result in enforcement proceedings as provided in 20VAC5-428-110.

[D. If a customer indicates that a medical necessity requires prompt restoration of service, a LEC shall restore service within 24 hours.]

20VAC5-428-100. Generally inadequate service.

A LEC shall, at the direction of the commission following notice and an opportunity for hearing, address any concern

for inadequate service quality not specifically addressed in this chapter.

20VAC5-428-110. Enforcement and sanctions.

The commission may, upon motion, and after opportunity for written response from the LEC in accordance with 5VAC5-20-100, issue such order or orders as it deems necessary to notify a LEC of the LEC's obligation and need to satisfy the provisions of this chapter. If a LEC fails to comply with the directives of such order, the commission may, following notice and an opportunity for hearing, levy one or more of the penalties and sanctions authorized by §§ 12.1-13, 12.1-33, and 56-483 of the Code of Virginia for violations of such order.

20VAC5-428-120. Commission authority.

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

VA.R. Doc. No. R08-1363; Filed December 15, 2008; 4:06 p.m.

GENERAL NOTICES/ERRATA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice of Availability of 2007 Fish Tissue Monitoring Data

Pursuant to § 62.1-44.19:6 A 3 the Virginia Department of Environmental Quality (DEQ) is giving notice that new data concerning the presence of toxic contaminants in fish tissue are available for calendar year 2007. Fish monitoring in 2007 was performed at selected sites in the following river basins in Virginia: the Dan River and Roanoke River watersheds, the Chowan River, and Albemarle Sound watersheds (Meherrin River, Blackwater River, Nottoway River and Great Dismal Swamp drainages), the Tennessee River and Big Sandy River watersheds (Holston River, Clinch River, Powell River, Pound River, Russell Fork and Levisa Fork drainages) as well as smaller water bodies in other watersheds. The new data have been posted on the DEQ website at <http://www.deq.virginia.gov/fishtissue/fishtissue.html>. All other data for fish and sediments analyzed by DEQ between 1993 and 2007 can also be found on this website.

Contact Information: Gabriel Darkwah, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4127, toll free (800) 592-5482, or email gadarkwah@deq.virginia.gov.

Notice to Restore Water Quality for Shellfish Growing Areas Along Owens Pond, Little Taskmakers Creek, and an Unnamed Tributary to the Chesapeake Bay Near Fleeton Point

Public meeting: January 21, 2009, at the Northumberland Public Library, 7204 Northumberland Highway, Heathsville, VA 22473. An afternoon public meeting will be held from 1 p.m. to 3 p.m. and the evening public meeting from 6 p.m. to 8 p.m. The library asks that you please park at the side or in back of the building.

Purpose of notice: The Virginia Department of Environmental Quality and the Department of Conservation and Recreation are announcing a study to restore water quality for a shellfish growing area, a public comment opportunity, and two public meetings.

Meeting description: First public meetings on a study to restore water quality for shellfish growing areas along Owens Pond, Little Taskmakers Creek, and an unnamed tributary (UT) to the Chesapeake Bay near Fleeton Point that are impaired due to bacterial violations.

Description of study: Virginia agencies are working to identify sources of the bacterial contamination in the shellfish growing waters of the (tidal) Owens Pond and Little Taskmakers Creek including their tributaries, and an unnamed tributary to the Chesapeake Bay near Fleeton Point. These condemnations include an area of approximately 0.246

square miles in Northumberland County. These streams are impaired for failure to meet the designated use of shellfish consumption because of bacterial water quality standard violations.

Stream	County	Area (miles ²)	Impairment
Owens Pond	Northumberland	0.187	Shellfish Use (Fecal Coliform) bacteria
Little Taskmakers Creek	Northumberland	0.040	
UT to Chesapeake Bay	Northumberland	0.019	

The study reports the current status of the creeks via sampling performed by the Virginia Department of Health, Division of Shellfish Sanitation, shellfish area condemnations and the possible sources of bacterial contamination. The study recommends total maximum daily loads (TMDLs) 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, bacterial levels have to be reduced to the TMDL amount.

How to comment: DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting and be received by DEQ during the comment period, which will expire on February 23, 2009. DEQ also accepts written and oral comments at the public meeting announced in this notice.

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

Change to Bacteria Total Daily Maximum Load for the Appomattox River Basin

The Department of Environmental Quality (DEQ) seeks public comment on proposed modifications to the bacteria total maximum daily load (TMDL) developed for the Appomattox River Basin. The TMDL for E. coli addressed bacterial impairment in the Appomattox River Basin, was approved by the Environmental Protection Agency (EPA) on August 30, 2004, and can be found at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_result.cfm.

In the Appomattox River Basin Bacterial TMDL, the Appomattox Water Reclamation Facility, VA0020257 was omitted from the original TMDL study. The TMDL needs to reflect a wasteload allocation based on the design flow (0.3 mgd) of the facility at the time of issuance. To accommodate this increase, DEQ proposes to modify the wasteload allocation and TMDL at 126 cfu/100 ml of E. coli. This

General Notices/Errata

modification will affect three segments of the Appomattox River, Appomattox River (1), Appomattox River (2), and Appomattox River (3). This increase will not cause a water quality violation because Virginia's Water Quality Standards require that treated effluent discharged to a receiving stream meet the instream bacteria criteria above. The EPA considers a less than 1.0% change to the TMDL to be insignificant. The proposed increase in the wasteload allocation for this facility will be 0.075%, 0.086%, and 0.065% respectively of the TMDL. To review the new wasteload allocation and TMDL equation, please contact Paula Nash using the contact information below.

The public comment period for this modification will end on February 5, 2009. Questions or information requests should be addressed to Paula Nash. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Paula Nash, Blue Ridge Regional Office, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502, telephone (434) 582-6216, or email pbnash@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY DEPARTMENT OF CONSERVATION AND RECREATION

Notice of Public Meeting and Public Comment on the Development of a Total Maximum Daily Load Implementation Plan for Smith Creek in Rockingham County, Shenandoah County and City of Harrisonburg

The Department of Environmental Quality (DEQ) and the Department of Conservation and Recreation (DCR) seek written and oral comments from interested persons on the development of a Total Maximum Daily Load (TMDL) Implementation Plan for Smith Creek in Rockingham County, Shenandoah County and City of Harrisonburg. These streams were originally listed on the 1998 § 303(d) TMDL priority list and report as impaired due to violations of the state's general aquatic life standard and the state's water quality standard for bacteria. A TMDL for bacteria were developed to address the bacterial impairment, and a TMDL for sediment were developed to address the general aquatic life impairment. These TMDLs were approved by EPA on June 29, 2004, and are available on DEQ's website at http://gisweb.deq.virginia.gov/tmdlapp/tmdl_report_search.cfm.

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

DEQ and DCR will hold a final public meeting on Thursday, January 22, 2009, at 6 p.m. to inform the public of the IP development and to solicit comments on the draft document. The draft implementation plan will be available for review on the web no later than January 15, 2009, at <http://www.deq.virginia.gov/tmdl/iprpts.html>. The meeting will be held at the Tenth Legion Ruritan Hall in Tenth Legion, Virginia. A dinner will be served before the meeting. For directions and to RSVP for the meeting, please contact Tara Sieber at the details below.

The public comment period for this final public meeting will end on Friday, February 13, 2009. Questions or information requests should be addressed to Tara Sieber, DEQ, (540) 574-7870. Written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to Tara Sieber, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, telephone (540) 574-7870, FAX (540) 574-7878, or email tsieber@deq.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Notice of Periodic Review

Pursuant to Executive Order 36 (2006), the Virginia Department of Labor and Industry (DOLI) and the Safety and Health Codes Board (board) will review the following regulations. The purpose of the review is to determine whether these regulations should be amended, or retained in their current form. The review of the regulations will be guided by the principles listed in Executive Order 36 (2006).

DOLI and the board seek public comment on the review of issues related to these regulations, especially the following:

1. Does the regulation meet the following goals?

- Reduce the incidence of material impairment of the health of Virginia workers due to workplace exposure to known hazards.
- Require sanitary facilities for agricultural workers equal to those required for construction workers.
- Protect the public's health, safety and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth.

2. Is the regulation clearly written and easy to understand?

16VAC25-30, Regulations for Asbestos Emissions Standards for Demolition and Renovation Construction Activities and the Disposal of Asbestos-Containing Construction Wastes--Incorporation By Reference, 40 CFR 61.140 through 40 CFR 61.156

The purpose of this regulation is to incorporate by reference the federal Environmental Protection Agency (EPA) National Emissions Standards for Hazardous Air Pollutants (NESHAP)

regulations, which regulate human exposure to asbestos as a result of air emissions from demolition and renovation, and disposal of asbestos containing waste. (See the Code of Virginia, § 40.1-51.25.)

16VAC25-35, Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits and Permit Fees

The purpose of this regulation is to establish the notification requirements for certain lead projects and to provide for payment of permit fees based on the size of the lead project. The regulation also requires filing of amended notifications prior to changes in, or cancellation of, projects. It does not mandate the abatement of lead from any public or private property. (See the Code of Virginia, §§ 40.1-22 and 40.1-51.20.)

16VAC25-40, Standard for Boiler and Pressure Vessel Operator Certification

Pursuant to § 15.2-910 of the Code of Virginia, the purpose of this regulation is to authorize a local government, at its option, to require boiler or pressure vessel operators to obtain an initial certification from the locality before engaging in the operation and maintenance of boilers and pressure vessels in the jurisdiction. This regulation provides a uniform statewide standard to determine ability, proficiency and qualification of local certification applicants. This standard is for the use of governing bodies of counties, cities and towns that have adopted ordinances requiring local certification. This regulation does not provide for state certification of boiler and pressure vessel operators. (See the Code of Virginia, §§ 40.1-22 and 15.2-910.)

16VAC25-70, Virginia Confined Space Standard for the Telecommunications Industry

The purpose of this regulation is to prescribe basic mandatory practices and procedures which telecommunications employers must establish and use for employee entry into, and work within, confined spaces. (See the Code of Virginia, § 40.1-22.)

16VAC25-80, Access to Employee Exposure and Medical Records

The purpose of this regulation is to give employees and their designated representatives a right of access to relevant exposure and medical records and to grant access to such records to representatives of the Department of Labor and Industry. This access is provided to facilitate the recognition of workplace hazards and the subsequent reduction of occupational disease. (See the Code of Virginia, § 40.1-22.)

16VAC25-140, Virginia Confined Space Standard for the Construction Industry

This regulation applies to all employers with employees covered by the Virginia regulations for the construction industry. This regulation prescribes the basic mandatory practices and procedures which employers must establish and use for employee entry and work within confined spaces. (See the Code of Virginia, § 40.1-22.)

16VAC25-150, Underground Construction, Construction Industry

The purpose of this regulation is to require employers to comply with any more stringent requirements contained in the Virginia Confined Space Standard for the Construction Industry, 16VAC25-140, when working in underground construction areas which also meet the definition of "confined space" in 16VAC25-140. (See the Code of Virginia, § 40.1-22.)

16VAC25-160, Construction Industry Standard for Sanitation

The purpose of this regulation is to require employers engaged in construction activities to furnish, without cost to the employees, potable water, toilet facilities and hand washing facilities. Potable drinking water containers as well as toilet and hand washing facilities are required to be maintained in a clean and sanitary condition. The potable drinking water which must be furnished under the regulation must be suitably cool and in sufficient amounts so that it is not completely consumed during the workday. Drinking water must be dispensed in single-use cups. (See the Code of Virginia, § 40.1-22.)

16VAC25-170, Virginia Excavation Standard, Construction Industry

This regulation mandates that employers comply with any more stringent requirements contained in the Virginia Confined Space Standard for the Construction Industry, 16VAC25-140, when working in excavation areas which also meet the definition of "confined space" in 16VAC25-140. (See the Code of Virginia, § 40.1-22.)

16VAC25-180, Virginia Field Sanitation Standard, Agriculture

The purpose of this regulation is to protect workers against heat-related illnesses, communicable and infectious diseases, urinary tract infections and pesticide illnesses. The regulation ensures that sanitary conditions affecting agricultural workers will be maintained so as to minimize adverse effects on their health and safety. The regulation applies to all agricultural establishments regardless of the number of employees. Employers are required to permit reasonable use of the

General Notices/Errata

facilities and provide training on personal hygiene practices to prevent illness and spread of disease. The provision of potable water is required for all agricultural establishments regardless of the number of employees. (See the Code of Virginia, § 40.1-22.)

Public comment period: January 5, 2009, through January 26, 2009.

Comments on these regulations are welcome. Comments may be mailed to Reba O'Connor, Virginia Department of Labor and Industry, Powers-Taylor Building, 13 South 13th Street, Richmond, VA 23219 or email reba.oconnor@doli.virginia.gov. Please include your full name and mailing address.

VIRGINIA CODE COMMISSION

Notice to State Agencies

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

Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.

ERRATA

ALCOHOLIC BEVERAGE CONTROL BOARD

Titles of Regulations: **3VAC5-10. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations (repealing 3VAC5-10-480).**

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

Publication: 25:6 VA.R. 1173-1178 November 24, 2008.

Correction to Final Regulation:

Page 1173, column 2, after the summary, insert and amend the chapter title as follows:

CHAPTER 10
PROCEDURAL RULES FOR THE CONDUCT OF
HEARINGS BEFORE THE BOARD AND ITS
HEARING OFFICERS ~~AND THE ADOPTION OR
AMENDMENT OF REGULATIONS~~

VA.R. Doc. No. R09-1425; Filed December 15, 2008, 3:43 p.m.

BOARD FOR BARBERS AND COSMETOLOGY

Titles of Regulations: **18VAC41-10. Public Participation Guidelines (repealing 18VAC41-10-10 through 18VAC41-10-90).**

18VAC41-11. Public Participation Guidelines (adding 18VAC41-11-10 through 18VAC41-11-110).

Publication: 25:6 VA.R. 1321-1325 November 24, 2008.

Correction to Final Regulation:

Page 1322, in 18VAC41-11-10, line 3, change "Board for Barbers" to "Board for Barbers and Cosmetology"

Page 1322, in 18VAC41-11-20, definition of "Agency," line 1, change "Board for Barbers" to "Board for Barbers and Cosmetology"

VA.R. Doc. No. R09-1468; Filed December 16, 2008, 4:17 p.m.

STATE WATER CONTROL BOARD

Title of Regulation: **9VAC25-210. Virginia Water Protection Permit Program Regulation (amending 9VAC25-210-10, 9VAC25-210-50, 9VAC25-210-60, 9VAC25-210-130, 9VAC25-210-220).**

Publication: 25:5 VA.R. 894-904 November 10, 2008.

Correction to Final Regulation:

Page 903, in 9VAC25-210-130 H, line 2, unstrike "permit"

Page 903, in 9VAC25-210-130 J, line 6, unstrike "permit"

VA.R. Doc. No. R09-1411; Filed December 11, 2008, 3:04 p.m.

General Notices/Errata

DEPARTMENT OF GENERAL SERVICES

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

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

Publication: 25:6 VA.R. 1170-1173 November 24, 2008.

Correction to Final Regulation:

This final regulatory action was inadvertently printed in the Virginia Register volume and issue indicated above. The official publication of this regulatory action may be found in 25:8 VA.R. 1487-1490 December 22, 2008.

VA.R. Doc. No. R09-1417

