



# Virginia Register of Regulations

VOL. 27 ISS. 8

PUBLISHED EVERY OTHER WEEK BY THE VIRGINIA CODE COMMISSION

DECEMBER 20, 2010

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# THE VIRGINIA REGISTER INFORMATION PAGE

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

## **ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS**

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.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

## **FAST-TRACK RULEMAKING PROCESS**

Section 2.2-4012.1 of the Code of Virginia provides an 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. **26:20 V.A.R. 2510-2515 June 7, 2010**, refers to Volume 26, Issue 20, pages 2510 through 2515 of the *Virginia Register* issued on June 7, 2010.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Bill Janis**, Vice Chairman; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Frank S. Ferguson**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Jane M. Roush**; **Patricia L. West**.

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

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## PUBLICATION SCHEDULE AND DEADLINES

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This schedule is available on the *Register's* Internet home page (<http://register.dls.virginia.gov>).

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### December 2010 through December 2011

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
27:8	December 1, 2010	December 20, 2010
27:9	December 14, 2010 ( <b>Tuesday</b> )	January 3, 2011
27:10	December 28, 2010 ( <b>Tuesday</b> )	January 17, 2011
27:11	January 12, 2011	January 31, 2011
27:12	January 26, 2011	February 14, 2011
27:13	February 9, 2011	February 28, 2011
27:14	February 23, 2011	March 14, 2011
27:15	March 9, 2011	March 28, 2011
27:16	March 23, 2011	April 11, 2011
27:17	April 6, 2011	April 25, 2011
27:18	April 20, 2011	May 9, 2011
27:19	May 4, 2011	May 23, 2011
27:20	May 18, 2011	June 6, 2011
27:21	June 1, 2011	June 20, 2011
27:22	June 15, 2011	July 4, 2011
27:23	June 29, 2011	July 18, 2011
27:24	July 13, 2011	August 1, 2011
27:25	July 27, 2011	August 15, 2011
27:26	August 10, 2011	August 29, 2011
28:1	August 24, 2011	September 12, 2011
28:2	September 7, 2011	September 26, 2011
28:3	September 21, 2011	October 10, 2011
28:4	October 5, 2011	October 24, 2011
28:5	October 19, 2011	November 7, 2011
28:6	November 2, 2011	November 21, 2011
28:7	November 15, 2011 ( <b>Tuesday</b> )	December 5, 2011

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 12. HEALTH

### STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

#### Agency Decision

**Title of Regulation: 12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

**Statutory Authority: § 37.2-400 of the Code of Virginia.**

**Name of Petitioner: Steven Shoon.**

**Nature of Petitioner's Request: Establish a new regulation requiring state-operated and publicly funded facilities to physically post Freedom of Information Act (FOIA) information.**

**Agency Decision: Take no action.**

**Statement of Reason for Decision: The request exceeds the scope of 12VAC35-115.**

**Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.**

VA.R. Doc. No. R11-08; Filed December 6, 2010, 8:59 a.m.

#### Agency Decision

**Title of Regulation: 12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

**Statutory Authority: § 37.2-400 of the Code of Virginia.**

**Name of Petitioner: Steven Shoon.**

**Nature of Petitioner's Request: Establish a new regulation requiring all state mental health facilities, excluding mental health facilities publicly funded or licensed, to establish a facility directory and to require the commissioner (or the department's Central Office) to establish and maintain a master patient directory for all eight state mental health facilities.**

**Agency Decision: Take no action.**

**Statement of Reason for Decision: The request does not address the protections of individual human rights and therefore is outside of the scope of the Human Right regulations.**

**Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA**

23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.

VA.R. Doc. No. R11-09; Filed December 6, 2010, 9:01 a.m.

#### Agency Decision

**Title of Regulation: 12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

**Statutory Authority: § 37.2-400 of the Code of Virginia.**

**Name of Petitioner: Steven Shoon.**

**Nature of Petitioner's Request: Amend 12VAC35-115-30 to add a definition of "acute treatment."**

**Agency Decision: Take no action.**

**Statement of Reason for Decision: The petitioner incorrectly states that 12VAC35-115-110 uses the term, "acute treatment." The term is not used in the regulations, so there is no need to have the definition.**

**Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.**

VA.R. Doc. No. R11-06; Filed December 3, 2010, 4:52 p.m.

#### Agency Decision

**Title of Regulation: 12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

**Statutory Authority: § 37.2-400 of the Code of Virginia.**

**Name of Petitioner: Steven Shoon.**

**Nature of Petitioner's Request: Amend 12VAC35-115-40 to require the display of information on how to contact people the provider identifies as accountable for individuals resolving complaints or exercising FOIA rights for all providers operated or publicly funded by or through the department.**

**Agency Decision: Take no action.**

**Statement of Reason for Decision: The Human Rights regulations and the Virginia Freedom of Information Act (FOIA) are two distinctive regulatory processes. The Human Rights regulations are intended to assure consumer protections of legal, civil, and human rights related to the receipt of behavioral health and developmental services. FOIA is intended to ensure citizen access to government records in custody of public officials and meetings of "public bodies." The request exceeds the scope of 12VAC35-115.**

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# Petitions for Rulemaking

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Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.

VA.R. Doc. No. R11-10; Filed December 3, 2010, 4:54 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-40 B 1 to require all providers to list the people identified for helping individuals resolve complaints and help with other rights.

Agency Decision: Take no action.

Statement of Reason for Decision: The Human Rights regulations already require the posting of information as to how individuals can contact a human rights advocate. Additionally, the regulations also require that individuals be provided with the name and contact information of a human rights advocate and a description of the role of the advocate.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.

VA.R. Doc. No. R11-05; Filed December 6, 2010, 8:53 a.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-90 to include the statement that "clinical findings required to be stated for denial or limitation of access to service records shall not be construed as the reason required to be documented or explained under 12VAC35-115-100."

Agency Decision: Take no action.

Statement of Reason for Decision: This appears to be a practice issue. The stipulations of 12VAC35-115-90 are based on the requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), while the provisions of 12VAC35-115-100 relate to everyday freedoms

and have nothing to do with accessing an individual's service record.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.

VA.R. Doc. No. R11-03; Filed December 6, 2010, 8:57 a.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-100 A 1 d to add the Internet to the list of resources that an individual has the right to see, hear, or receive and add an additional requirement for the provider to document the criteria for removal of restrictions.

Agency Decision: Take no action.

Statement of Reason for Decision: Adding the Internet to the list of resources would require every private and public provider to offer Internet access to individuals receiving services, which may not even be possible. Adding the Internet to the list would result in significant additional costs for both public and private providers.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email linda.grasewicz@dbhds.virginia.gov.

VA.R. Doc. No. R11-04; Filed December 3, 2010, 3:54 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-150 to better reflect the requirements of and to reference the specific section of § 2.2-3700 et seq. of the Code of Virginia (Virginia Freedom of Information Act) related to closed meeting attendance policies.

Agency Decision: Take no action.

Statement of Reason for Decision: The board feels that 12VAC35-115-15 accurately reflects and references the Virginia Freedom of Information Act.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-07; Filed December 3, 2010, 3:56 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-160 to allow the human rights advocate to remove the facility director from reviewing or appointing a designee to review a complaint when the human rights advocate makes a finding that the facility director is not willing and able to render an impartial review of the complaint.

Agency Decision: Take no action.

Statement of Reason for Decision: 12VAC35-115-170 has replaced 12VAC35-115-160. Complaints should be dealt with at the lowest level possible and should first be directed to the person who caused the problem and has the power to fix it. This is the director. If not satisfied, the complainant can then take the concern to the independent Local Human Rights Committee for a hearing.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-12; Filed December 3, 2010, 4:27 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-180 to establish the findings of an abuse allegation as a basis for a Local Human Rights Committee (LHRC) fact-finding hearing.

Agency Decision: Take no action.

Statement of Reason for Decision: The proposed change would diminish an individual's right to choose whether an allegation of abuse should come before the LHRC for a fact finding hearing. Presently this is a personal decision; the proposed change would make an LHRC fact-finding hearing mandatory.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-13; Filed December 3, 2010, 4:30 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-230 A to include the Virginia Office for Protection and Advocacy as a required agency to whom providers must report abuse, neglect, and exploitation allegations.

Agency Decision: Take no action.

Statement of Reason for Decision: This request exceeds the scope of the Human Rights regulations and would require a change in the Code of Virginia to implement.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-14; Filed December 3, 2010, 4:35 p.m.

## Agency Decision

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-250 to remove the State Human Rights Director (SHRD) and all human rights advocates from under the authority of the Commissioner.

Agency Decision: Take no action.

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# Petitions for Rulemaking

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Statement of Reason for Decision: The State Human Rights Director and human rights advocates are part of the Department of Behavioral Health and Developmental Services (DBHDS) regulatory process to assure protection of the rights of individuals receiving services. As department employees, these positions are under the authority of the DBHDS Commissioner. Making the requested change would require a change in the Code of Virginia.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-11; Filed December 7, 2010, 9:19 a.m.

## Initial Agency Notice

Title of Regulation: **12VAC35-115. Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services.**

Statutory Authority: § 37.2-400 of the Code of Virginia.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Amend 12VAC35-115-30 definitions of "restriction" and "seclusion" to define a distinction between one another.

Agency's Plan for Disposition of Request: The board will consider the petition and any comments received at its regularly scheduled meeting on April 28, 2011.

Public Comment Deadline: January 10, 2011.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-20; Filed December 6, 2010, 12:09 p.m.

## Initial Agency Notice

Title of Regulation: **None specified.**

Statutory Authority: N/A.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Promulgate new regulations requiring the Commissioner to request the FOI Advisory Council assistance in developing a guidance document for bridging the applicable meeting requirements under §§ 2.2-3702, 2.2-3704.1, 2.2-3707, 2.2-3707.1, 2.2-3708, 2.2-3708.1, 2.2-3710, 2.2-3711, 2.2-3712, 2.2-4007, 2.2-4031, and 2.2-3704 of the Code of Virginia and to define the term "roll call" as used under § 2.2-3710 of the Code of Virginia.

Agency's Plan for Disposition of Request: The board will consider the petition and any comments received at its regularly scheduled meeting on April 28, 2011.

Public Comment Deadline: January 10, 2011.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-21; Filed December 6, 2010, 11:17 a.m.

## Initial Agency Notice

Title of Regulation: **None specified.**

Statutory Authority: N/A.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Establish new regulations requiring a FOI Advisory Council study on what groupings within Department of Behavioral Health and Developmental Services constitute public bodies; and what convenings do and do not constitute a meeting under § 2.2-3701 of the Code of Virginia.

Agency's Plan for Disposition of Request: The board will consider the petition and any comments received at its regularly scheduled meeting on April 28, 2011.

Public Comment Deadline: January 10, 2011.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-22; Filed December 6, 2010, 11:45 a.m.

## Initial Agency Notice

Title of Regulation: **None specified.**

Statutory Authority: N/A.

Name of Petitioner: Steven Shoon.

Nature of Petitioner's Request: Establish new regulations that mandate mental health consumers receiving inpatient hospitalization, outpatient treatment, or both; and have access to meetings of the State Board; State Human Rights Committee (SHRC); and all Local Human Rights Committees (LHRCs) via electronic video/tele-conference pursuant to § 2.2-3708 and § 2.2-3708.1 of the Code of Virginia.

Agency's Plan for Disposition of Request: The board will consider the petition and any comments received at its regularly scheduled meeting on April 28, 2011.

Public Comment Deadline: January 10, 2011.

Agency Contact: Linda B. Grasewicz, Regulatory Coordinator, Department of Behavioral Health and Developmental Services, 1220 Bank Street, Richmond, VA 23218-1797, telephone (804) 786-0040, or email [linda.grasewicz@dbhds.virginia.gov](mailto:linda.grasewicz@dbhds.virginia.gov).

VA.R. Doc. No. R11-23; Filed December 6, 2010, 12:05 p.m.



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# REGULATIONS

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

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## Symbol Key

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

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## TITLE 1. ADMINISTRATION

### STATE BOARD OF ELECTIONS

**REGISTRAR'S NOTICE:** The State Board of Elections is claiming an exemption from the Administrative Process Act pursuant to § 2.2-4002 B 8 of the Code of Virginia, which exempts agency action relating to the conduct of elections or eligibility to vote.

#### Proposed Regulation

Title of Regulation: **1VAC20-40. Voter Registration (adding 1VAC20-40-70).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until January 10, 2011.

Agency Contact: Martha Brissette, Policy Analyst, State Board of Elections, 1100 Bank St., Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 786-0760, or email martha.brissette@sbe.virginia.gov.

#### Summary:

*In 2009 the State Board of Elections undertook an in-depth review of its policies and reaffirmed those policies identified as stating current rules with which general registrars and electoral boards must comply. This regulation restates the board policies so identified as regulations for publication in the Virginia Administrative Code where they will be more accessible to the public and the election community. The regulation restatement is based on board policies 2006-008, 2006-002, 2001-007, 1971-001, and 1970-001. The regulation sets forth requirements regarding the voter registration application form and signature; details standards to assist local election officials in determining what omissions on a voter registration application are not material and when to attempt to obtain certain missing information; and provide persons identified as noncitizens with an opportunity to affirm United States citizenship.*

### 1VAC20-40-70. Applications for voter registration; affirmation of United States citizenship.

#### A. Form and signature.

1. Applications for voter registration shall be on a form approved by the State Board of Elections or appropriate federal agency.

2. Applications for voter registration must be signed by the applicant or the name and address of the assistant entered on the signature line for an applicant with a physical disability.

B. Material omissions on applications for voter registration in general. The following omissions are not material if any of the following, or combination thereof, exists:

1. Daytime telephone number;

2. Description of a rural address;

3. Mailing address different from residence address;

4. Date of the application;

5. Whether the applicant is interested in working as an election official;

6. Whether the applicant requests to have his residence address excluded from published lists;

7. Whether the applicant has a disability that requires accommodation in order to vote; or

8. Gender.

C. Material omissions from applications for voter registration on a Federal Post Card Application or Federal Write-in Absentee Ballot. The following omissions are not material:

1. Service identification number, rank, grade, or rate on an application that declares active duty military status.

2. Employer name and address on an application that declares temporary overseas residence with no date of last residence.

3. Employer name and address on an application that declares temporary overseas residence with a date of last residence. If practicable, the general registrar should inform the applicant that eligibility for full ballots requires providing the name and address of an employer outside the United States.

4. Date of last residence on an application that declares indefinite overseas residence. The date of last residence for an application declaring indefinite overseas residence without indicating a date of last residence in the United States shall be the date the application is signed.

D. Middle name may be material to determining eligibility to vote. If the applicant does not include a middle name the registrar shall:

1. As far as practical, attempt to contact the applicant and obtain his middle name or lack thereof to determine if the application is complete.
2. If the applicant indicates that he has no middle name, the registrar shall process the application.
3. If the applicant indicates that he has a middle name, the registrar shall inform the applicant that the middle name is required, deny the application, and send the applicant a new application.
4. If the registrar is unable to contact the applicant and therefore unable to determine if the application is incomplete, he shall give the benefit of doubt to the applicant and process the application.

E. Except for gender, the general registrar, if practicable, shall attempt to contact the applicant and obtain the missing information requested on an application for voter registration that is not material to determining eligibility to vote. If the general registrar obtains any missing information, he shall write the information, his name, and the date on the reverse side of the application for voter registration to indicate that the alteration was made by the general registrar.

F. A general registrar shall not change information provided by an applicant on an application for voter registration without written authorization signed by the applicant.

G. Persons identified as noncitizens in reports from the Department of Motor Vehicles shall have the opportunity to affirm United States citizenship status using any approved voter registration application or other form containing the required affirmation. The State Board of Elections shall automate the process for requesting affirmation of United States citizenship prior to cancellation.

H. For cases not covered by this section, the general registrar in consultation with the electoral board and State Board of Elections staff shall determine materiality on a case-by-case basis that may result in further amendment of this regulation.

**REGISTRAR'S NOTICE:** The following forms used in administering the regulation have been filed by the State Board of Elections. The forms are not being published; however, the name of each form is listed below and hyperlinks to the actual form. Online users of this issue of the Virginia Register of Regulations may access the form by

clicking on the name of the form. The forms are also available for public inspection at the State Board of Elections, 1100 Bank Street, Richmond, VA, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (1VAC20-40)

[Virginia Voter Registration Application Form, VA-NVRA-1 \(rev. 2/10\).](#)

[National Voter Registration Application Form, Register to Vote in Your State by Using this Postcard Form and Guide \(rev. 3/06\).](#)

[Federal Post Card Application, Standard Form 76A \(rev. 10/05\).](#)

[Federal Write-In Absentee Ballot, Standard Form 186A \(rev. 10/05\).](#)

VA.R. Doc. No. R11-2626; Filed December 1, 2010, 9:50 a.m.

**Final Regulation**

**Title of Regulation: 1VAC20-70. Absentee Voting (adding 1VAC20-70-10, 1VAC20-70-20).**

**Statutory Authority:** § 24.1-103 of the Code of Virginia.

**Effective Date:** Effective upon the filing of the notice of the U.S. Attorney General's preclearance with Registrar of Regulations.

**Agency Contact:** Peter Goldin, Policy Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8930, FAX (804) 786-0760, or email peter.goldin@sbe.virginia.gov.

**Summary:**

*This regulation details standards to assist local election officials in determining whether absentee ballots may be counted by distinguishing what omissions are always material and require that the ballot be treated as void or invalid from those that are not material.*

**CHAPTER 70  
ABSENTEE VOTING**

**1VAC20-70-10. (Reserved.)**

**1VAC20-70-20. Material omissions from absentee ballots.**

A. Pursuant to the requirements of § 24.2-706 of the Code of Virginia, a timely received absentee ballot contained in an [ ] Envelope B [ ] should not be rendered invalid if it contains an error or omission not material to its proper processing.

B. The following omissions are always material and any Envelope B containing such omissions should be rendered invalid if [ any of the following, or combination thereof, exists ]:

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1. The voter [ ~~has did~~ ] not [ ~~included include~~ ] his full legal name in any order;

2. The voter [ ~~has only included~~ did not include ] his first name;

3. The voter [ ~~has only included~~ did not include ] his last name;

[ ~~4. The voter has not provided his house number, street name, and city of residence;~~

~~5. 4. ] The voter [ has did ] not [ signed sign ] the Envelope B;~~

[ ~~6. 5. ] The [ voter has not had his voter's ] witness [ did not ] sign the Envelope B; [ or ]~~

[ ~~7. 6. ] The ballot is not submitted either enclosed in or attached to the Envelope B [ ; or~~

~~8. Any combination of the omissions in subdivisions 1 to 7 of this subsection exists ] .~~

C. The ballot should not be rendered invalid if on the Envelope B:

1. The voter has omitted his middle name;

2. The voter has used a maiden name instead of a middle name;

3. The voter has used his middle initial instead of his full middle name;

4. The voter has used a nickname that is a derivative of his legal name instead of his first name ("Bob" instead of "Robert");

5. The voter has not provided his residential street identifier (Street, Drive, etc.);

6. The voter has not provided his residential zip code;

7. The voter has not provided the date or has only provided a partial date on which the absentee ballot was completed;

8. The signature of the voter is illegible; or

9. The signature of the witness is illegible.

[ D. Notwithstanding subsections B 1 through B 3 of this section, if the voter's identification can be ascertained by information provided on the outside or inside envelope, or by any preprinted information provided by the electoral board or general registrar, then the ballot should not be rendered invalid. ]

VA.R. Doc. No. R11-2443; Filed November 29, 2010, 8:06 a.m.

## Proposed Regulation

Title of Regulation: **1VAC20-70. Absentee Voting (adding 1VAC20-70-10, 1VAC20-70-40, 1VAC20-70-50).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: January 10, 2011.

Agency Contact: Martha Brissette, Policy Analyst, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, FAX (804) 786-0760, or email martha.brissette@sbe.virginia.gov.

### Summary:

*The proposed regulation defines "application for an absentee ballot" and "temporary federal only ballot overseas voter"; establishes alternative counting procedures for absentee ballots; and provides that an application on any version of an approved absentee ballot application form will be accepted based on the laws in effect at the time of the election for which the voter is applying.*

## CHAPTER 70 ABSENTEE VOTING

### **1VAC20-70-10. Definitions.**

"Application for an absentee ballot" means an application for an absentee ballot submitted on any form approved for that purpose according to federal and state laws. The term includes a Virginia Absentee Ballot Application (SBE-701), a Virginia Annual Absentee Ballot Application (SBE-703.1), and a Federal Post Card Application (SF-76A). A Federal Write-In Absentee Ballot (SF-186A) is an absentee ballot application only for the voted ballot being submitted and is not an application for future elections.

"Envelope B" means the envelope required by § 24.2-706 of the Code of Virginia which identifies the voter.

"Temporary federal only ballot overseas voter" means a United States citizen residing outside the United States indefinitely who has not provided his last date of residence in Virginia. The date the applicant has provided next to his affirmation will serve as his last date of residence.

### **1VAC20-70-40. Alternative counting procedures.**

An electoral board that approves use of alternative procedures for counting absentee ballots under § 24.2-709.1 of the Code of Virginia shall ensure that:

1. The general registrar staff assigned follow all previously prescribed instructions for processing and verifying absentee ballots.

2. All absentee ballots are secured at the end of each day following principles of dual control and chain of custody.

3. The general registrar staff assigned follow carefully all the requirements of § 24.2-709.1 of the Code of Virginia, including the requirement that at least two officers of election, one representing each party, be present during all hours that the expedited procedures are used.

4. Notice is given to the local political party chairs of the times and places for processing absentee ballots in sufficient time to allow for the authorized party representatives to be present.

**1VAC20-70-50. Version; applicable law.**

An application on any version of an approved absentee ballot application form shall be accepted based on the laws in effect at the time of the election for which the voter is applying.

REGISTRAR'S NOTICE: The following forms used in administering the regulation have been filed by the State Board of Elections. The forms are not being published; however, the name of each form is listed below and hyperlinks to the actual form. Online users of this issue of the Virginia Register of Regulations may access the form by clicking on the name of the form. The forms are also available for public inspection at the State Board of Elections, 1100 Bank Street, Richmond, VA 23219, or at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (1VAC20-70)

[Absentee Ballot Application Form, SBE-701 \(rev. 7/10\).](#)

[Annual Absentee Ballot Application, SBE-703.1 \(rev. 1/10\).](#)

[Federal Post Card Application, Registration and Absentee Ballot Request, Standard Form 76A \(rev. 10/05\).](#)

[Federal Write-In Absentee Ballot and Instructions, Standard Form 186A \(rev. 10/05\).](#)

[Envelope B for Statement of UOCAVA Absentee Voter, 42 USC 1973ff-1\(b\) \(rev. 5/04\).](#)

[Envelope B for Statement of Absentee Voter, SBE 706-2 \(rev. 7/03\).](#)

VA.R. Doc. No. R11-2686; Filed December 1, 2010, 10:32 a.m.

**Proposed Regulation**

Title of Regulation: **1VAC20-70. Absentee Voting (adding 1VAC20-70-30).**

Statutory Authority: § 24.2-103 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: January 10, 2011.

Agency Contact: Martha Brissette, State Board of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8925, or email [martha.brissette@sbe.virginia.gov](mailto:martha.brissette@sbe.virginia.gov).

Summary:

*This proposed regulation details standards to assist local election officials in determining whether a write-in ballot on a Federal Write-In Absentee Ballot (Form SF-186A) may be counted by distinguishing what omissions are always material and thereby invalidate the ballot from those that are not material.*

**CHAPTER 70  
ABSENTEE VOTING**

**1VAC20-70-30. Material omissions from Federal Write-In Absentee Ballots.**

A. Pursuant to the requirements of §§ 24.2-702.1 and 24.2-706 of the Code of Virginia, a timely received write-in absentee ballot on a Federal Write-In Absentee Ballot (FWAB) (Form SF-186A) should not be rendered invalid if it contains an error or omission not material to determining the eligibility of the applicant to vote in the election in which he offers to vote.

B. If the applicant is not registered, the FWAB may not be accepted as timely for registration unless the applicant has met the applicable registration deadline. Section 24.2-419 of the Code of Virginia extends the mail registration deadline for certain military applicants. All applicants are subject to the absentee application deadline in § 24.2-701 of the Code of Virginia.

C. The following omissions are always material and any FWAB containing such omissions should be rendered invalid if any of the following, or combination thereof, exists:

1. The applicant has omitted the signature of the voter or the notation of an assistant in the voter signature box that the voter is unable to sign;
2. The applicant has omitted the signature of the witness;
3. The applicant did not include the declaration/affirmation page;
4. The applicant omitted from the declaration/affirmation information required by § 24.2-702.1 of the Code of Virginia needed to determine eligibility including, but not limited to, current military or overseas address.

D. The ballot should not be rendered invalid if on the FWAB any of the following, or combination thereof, exists:

1. The applicant has not listed the names specifically in the order of last, first, and middle name;
2. The applicant has listed a middle initial or maiden name, instead of the full middle name;

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3. The applicant has omitted the street identifier, such as the term "road" or "street" when filling in the legal residence;

4. The applicant has omitted the county or city of registration if the county or city is clearly identifiable by the residence address information provided;

5. The applicant has omitted the zip code;

6. The applicant has omitted the date of the signature of the voter;

7. The applicant has omitted the address of the witness;

8. The applicant has omitted the date of signature of the witness;

9. The applicant has omitted a security envelope; or

10. The applicant has submitted a ballot containing offices or issues for which he is not eligible.

VA.R. Doc. No. R11-2685; Filed December 1, 2010, 11:03 a.m.

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## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

**REGISTRAR'S NOTICE:** The following regulations filed by the Marine Resources Commission are exempt from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

#### Final Regulation

**Title of Regulation:** 4VAC20-620. Pertaining to Summer Flounder (amending 4VAC20-620-20, 4VAC20-620-40).

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

**Effective Date:** December 1, 2010.

**Agency Contact:** Jane Warren, Agency Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, FAX (575) 247-2002, or email betty.warren@mrc.virginia.gov.

#### Summary:

*The amendments redefine "land" or "landing" and set a possession and landing limit of 200 pounds from January 1 through December 31 of each year, on any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia commercial hook-and-line licensee that possesses a Restricted Summer Flounder Endorsement, except as described in 4VAC20-620-30 F.*

#### 4VAC20-620-20. Definitions.

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

"Chesapeake Bay and its tributaries" means all tidal waters of Virginia, including the Potomac River tributaries but excluding the coastal area as defined in this section.

"Coastal area" means the area that includes Virginia's portion of the Territorial Sea and all of the creeks, bays, inlets, and tributaries on the seaside of Accomack County, Northampton County, including areas east of the causeway from Fisherman Island to the mainland and the City of Virginia Beach, including federal areas and state parks fronting on the Atlantic Ocean and east and south of the point where the shoreward boundary of the Territorial Sea joins the mainland at Cape Henry.

"Land" or "landing" means to ~~offload or attempt to offload finfish, shellfish, crustaceans or other marine seafood~~ (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

"Potomac River tributaries" means all the tributaries of the Potomac River that are within Virginia's jurisdiction beginning with, and including, Flag Pond, thence upstream to the District of Columbia boundary.

"Safe harbor" means that a vessel has been authorized by the commissioner to enter Virginia waters from federal waters solely to either dock temporarily at a Virginia seafood buyer's place of business or traverse the Intracoastal Waterway from Virginia to North Carolina.

#### 4VAC20-620-40. Commercial vessel possession and landing limitations.

A. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia's waters to do any of the following, except as described in subsections B, C, and E D of this section:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 10% by weight of Atlantic croaker or the combined landings, on board a vessel, of black sea bass, scup, squid, scallops, and Atlantic mackerel.
2. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 1,500 pounds landed in combination with Atlantic croaker.
3. Fail to sell the vessel's entire harvest of all species at the point of landing.

B. From the last Monday in February through the day preceding the last Monday in November, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 15,000 pounds.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in February.
3. Land in Virginia more than 7,500 pounds of Summer Flounder during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in February.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

C. From the last Monday in November through December 31 of each year, or until it has been projected and announced that 85% of the allowable landings have been taken, it shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to do any of the following:

1. Possess aboard any vessel in Virginia waters any amount of Summer Flounder in excess of 15,000 pounds.
2. Land Summer Flounder in Virginia for commercial purposes more than twice during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in November.
3. Land in Virginia more than a total of 7,500 pounds of Summer Flounder during each consecutive 12-day period, with the first 12-day period beginning on the last Monday in November.
4. Land in Virginia any amount of Summer Flounder more than once in any consecutive five-day period.

D. From January 1 through December 31 of each year, any boat or vessel issued a valid federal Summer Flounder moratorium permit and owned and operated by a legal Virginia Commercial Hook-and-Line Licensee that possesses a Restricted Summer Flounder Endorsement shall be restricted to a possession and landing limit of 200 pounds of Summer Flounder, except as described in 4VAC20-620-30 F.

~~D. E.~~ Upon request by a marine police officer, the seafood buyer or processor shall offload and accurately determine the total weight of all Summer Flounder aboard any vessel landing Summer Flounder in Virginia.

~~E. F.~~ Any possession limit described in this section shall be determined by the weight in pounds of Summer Flounder as customarily packed, boxed and weighed by the seafood buyer

or processor. The weight of any Summer Flounder in pounds found in excess of any possession limit described in this section shall be prima facie evidence of violation of this chapter. Persons in possession of Summer Flounder aboard any vessel in excess of the possession limit shall be in violation of this chapter unless that vessel has requested and been granted safe harbor. Any buyer or processor offloading or accepting any quantity of Summer Flounder from any vessel in excess of the possession limit shall be in violation of this chapter, except as described by subsection ~~H I~~ of this section. A buyer or processor may accept or buy Summer Flounder from a vessel that has secured safe harbor, provided that vessel has satisfied the requirements described in subsection ~~H I~~ of this section.

~~F. G.~~ If a person violates the possession limits described in this section, the entire amount of Summer Flounder in that person's possession shall be confiscated. Any confiscated Summer Flounder shall be considered as a removal from the appropriate commercial harvest or landings quota. Upon confiscation, the marine police officer shall inventory the confiscated Summer Flounder and, at a minimum, secure two bids for purchase of the confiscated Summer Flounder from approved and licensed seafood buyers. The confiscated fish will be sold to the highest bidder and all funds derived from such sale shall be deposited for the Commonwealth pending court resolution of the charge of violating the possession limits established by this chapter. All of the collected funds will be returned to the accused upon a finding of innocence or forfeited to the Commonwealth upon a finding of guilty.

~~G. H.~~ It shall be unlawful for a licensed seafood buyer or federally permitted seafood buyer to fail to contact the Marine Resources Commission Operation Station prior to a vessel offloading Summer Flounder harvested outside of Virginia. The buyer shall provide to the Marine Resources Commission the name of the vessel, its captain, an estimate of the amount in pounds of Summer Flounder on board that vessel, and the anticipated or approximate offloading time. Once offloading of any vessel is complete and the weight of the landed Summer Flounder has been determined, the buyer shall contact the Marine Resources Commission Operations Station and report the vessel name and corresponding weight of Summer Flounder landed. It shall be unlawful for any person to offload from a boat or vessel for commercial purposes any Summer Flounder during the period of 6 p.m. to 7 a.m.

~~H. I.~~ Any boat or vessel that has entered Virginia waters for safe harbor shall only offload Summer Flounder when the state that licenses that vessel requests to transfer quota to Virginia, in the amount that corresponds to that vessel's possession limit, and the commissioner agrees to accept that transfer of quota.

~~I. J.~~ After any commercial harvest or landing quota as described in 4VAC20-620-30 has been attained and announced as such, any boat or vessel possessing Summer

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Flounder on board may enter Virginia waters for safe harbor but shall contact the Marine Resources Commission Operation Center in advance of such entry into Virginia waters.

¶ K. It shall be unlawful for any person harvesting Summer Flounder outside of Virginia waters to possess aboard any vessel, in Virginia, any amount of Summer Flounder, once it has been projected and announced that 100% of the quota described in 4VAC20-620-30 A has been taken.

VA.R. Doc. No. R11-2648; Filed November 29, 2010, 3:53 p.m.

## Final Regulation

Title of Regulation: **4VAC20-920. Pertaining to Landing Licenses (amending 4VAC20-920-20, 4VAC20-920-40).**

Statutory Authority: §§ 28.2-201 and 28.2-228.1 of the Code of Virginia.

Effective Date: December 1, 2010.

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:

*The amendments set the eligibility criteria to obtain a Restricted Summer Flounder Endorsement License.*

### **4VAC20-920-20. Definitions.**

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

"Land" or "landing" means to (i) enter port with finfish, shellfish, crustaceans, or other marine seafood on board any boat or vessel, ~~to~~; (ii) begin offloading finfish, shellfish, crustaceans, or other marine seafood; or ~~to~~ (iii) offload finfish, shellfish, crustaceans, or other marine seafood.

### **4VAC20-920-40. Summer Flounder endorsement license Endorsement License, Restricted Summer Flounder Endorsement License, and exemption.**

A. It shall be unlawful for any boat or vessel to land Summer Flounder in Virginia for commercial purposes, without first obtaining a Seafood Landing License as described in 4VAC20-920-30 and a Summer Flounder Endorsement License or possessing a Restricted Summer Flounder Endorsement License. The Summer Flounder Endorsement License shall be required of each boat or vessel used to land Summer Flounder for commercial purposes. Possession of any quantity of Summer Flounder which exceeds the possession limit, described in 4VAC20-620-60, shall be presumed to be for commercial purposes. Any boat or vessel so licensed shall display a Summer Flounder Endorsement License decal, provided by the Virginia Marine

Resources Commission. The decals shall be displayed on both the port and starboard sides of the pilot house.

B. It shall be unlawful for any buyer of seafood to receive any Summer Flounder from any boat or vessel which is not licensed for the landing of Summer Flounder unless that boat or vessel is exempt from the requirement to obtain a Seafood Landing License and a Summer Flounder Endorsement License as described in 4VAC20-920-30 and this section.

C. Any boat or vessel that is both owned and operated by a person who holds a valid Virginia Commercial Fisherman Registration License and is used solely for fishing for summer flounder only in Virginia waters shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

D. Any boat or vessel operated by a person harvesting and landing marine seafood from the Potomac River who holds a valid Potomac River Fisheries Commission commercial license shall be exempt from the requirement to obtain a Summer Flounder Endorsement License.

E. Any boat or vessel operated by a person harvesting and landing marine seafood from leased ground or reharvesting marine seafood as part of the relay process shall be exempt from the requirements to obtain a Summer Flounder Endorsement License.

F. To be eligible for a Summer Flounder Endorsement License the boat or vessel shall have landed and sold at least 500 pounds of Summer Flounder in Virginia in at least one year during the period of 1993 through 1995.

1. The owner shall complete an application for each boat or vessel by providing to the commission a notarized and signed statement of applicant's name, address, telephone number, boat or vessel name, and registration or documentation number and a copy of the vessel's federal Summer Flounder moratorium permit.
2. The owner shall complete a notarized authorization to allow the commission to obtain copies of landings data from the National Marine Fisheries Service.

G. To be eligible for a Restricted Summer Flounder Endorsement License (RSFEL), a person must be a legal Virginia Commercial Hook-and-Line Licensee and own a vessel issued a valid federal Summer Flounder moratorium permit. The person shall complete an application for the RSFEL by providing to the commission a notarized and signed statement of his name, address, telephone number, boat or vessel name, and its registration or documentation number, as well as a copy of that vessel's federal Summer Flounder moratorium permit.

~~G. H.~~ Effective February 24, 2004, any vessel eligible for a Summer Flounder Endorsement License shall be considered a baseline vessel, and that vessel's total length and gross tonnage shall be used to determine eligibility for all future

transfers of that Summer Flounder Endorsement License. A Summer Flounder Endorsement License may be transferred from one vessel to another vessel that is entering the Summer Flounder fishery, provided the vessel receiving the Summer Flounder Endorsement License does not exceed, by more than 10%, the total length and gross tonnage of the baseline vessel that held that Summer Flounder Endorsement License on February 24, 2004.

VA.R. Doc. No. R11-2647; Filed November 29, 2010; 3:51 p.m.

**Final Regulation**

**Title of Regulation:** 4VAC20-995. **Pertaining to Commercial Hook-And-Line Fishing (amending 4VAC20-995-20, 4VAC20-995-30; adding 4VAC20-995-15).**

**Statutory Authority:** §§ 28.2-201 and 28.2-204.1 of the Code of Virginia.

**Effective Date:** December 1, 2010.

**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:**

*The amendments (i) define "year" as a calendar year, (ii) limit the number of registered crew members to 15, and (iii) limit the number of times the crew member list may be changed in any year to once per year.*

**4VAC20-995-15. Definition.**

The following word when used in this chapter shall have the following meaning unless the context indicates otherwise:

"Year" means a calendar year.

**4VAC20-995-20. Entry limitation; catch restrictions; transfers.**

A. The sale of commercial hook-and-line licenses shall be limited to registered commercial fishermen meeting either of the following two requirements, except as provided by subsection B of this section:

1. The fisherman shall have held a 1996 commercial hook-and-line license or a 1997 commercial hook-and-line license that was purchased prior to August 26, 1997, provided the fisherman has reported sales of at least 1,000 pounds of seafood during the course of the previous two years as documented by the commission's mandatory harvest reporting program.
2. The fisherman shall hold a valid and current striped bass permit issued by the Marine Resources Commission.

B. The fisherman otherwise qualified under subdivision A 1 of this section shall have been granted an exemption from the

requirement to report sales of at least 1,000 pounds of seafood during the course of the previous two years as documented by the commission's mandatory harvest reporting system.

1. Exemptions shall be solely based ~~solely~~ only on documented medical hardships or active military leave that prevented the fisherman from fully satisfying the requirements described in subdivision A 1 of this section.
2. Exemptions may only be granted by the commissioner or his designee.

~~C. The maximum number of general hook-and-line licenses is established as 200 and includes those fishermen who either satisfy the provisions of subdivision A 1 of this section or are registered commercial fishermen who have reported sales of at least 1,000 pounds of seafood during the course of the previous two years, as documented by the commission's mandatory harvest reporting program, chosen by random drawing, to be held annually, should the number of licensees at the start of any year be less than 200.~~

D. A random drawing for available commercial hook-and-line licenses shall be held annually should the number of licensees at the start of any year be less than 200. Commercial Fisherman Registration Licensees who have reported sales of at least 1,000 pounds of seafood harvest during the course of the previous two years by the 5th day of January as documented by the commission's mandatory harvest reporting program, but who do not currently possess a hook-and-line license, shall be eligible for the random drawing.

~~D. E. Persons who are eligible to purchase a commercial hook-and-line license by meeting the provisions of subdivision A 2 of this section may take only striped bass by commercial hook and line.~~

~~E. F. Any person licensed for commercial hook and line under the provisions of subdivision A 1 of this section may transfer such license to any registered commercial fisherman, provided that the transferee shall have documented, through the commission's mandatory harvest reporting program, the sale of at least 1,000 pounds of seafood during the course of the previous two years. Transfer of licenses between family members shall be exempt from this requirement. All transfers shall be documented on the form provided by the Marine Resources Commission and approved by the Marine Resources Commissioner. Upon approval, the person entering the commercial hook and line fishery shall purchase a commercial hook and line license in his own name. No commercial hook and line license shall be transferred more than once per calendar year.~~

1. The transferee has a Commercial Fisherman Registration License.
2. The transferee has reported sales of at least 1,000 pounds of seafood harvest during the course of the previous two years by the 5th day of January, as



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documented by the commission's mandatory harvest reporting program.

3. All transfers shall be documented on a form provided by the Marine Resources Commission and approved by the Marine Resources Commissioner or his designee. Upon approval, the person entering the commercial hook-and-line fishery shall purchase a commercial hook-and-line license in his own name.

4. Transfers of commercial hook-and-line licenses between family members shall be exempt from the requirements provided in subdivision 2 of this subsection.

5. No commercial hook-and-line license shall be transferred more than once per calendar year.

## **4VAC20-995-30. Prohibitions.**

A. It shall be unlawful for any person licensed under the provisions of 4VAC20-995-20 A 1 or 2 as a commercial hook-and-line fisherman to do any of the following unless otherwise specified:

1. Fail to be on board the vessel when that vessel is operating in a commercial hook-and-line fishing capacity.
2. Have more than three crew members, who need not be registered commercial fishermen, on board provided that:
  - a. Crew members shall be registered with the commission on an annual basis and in advance of any fishing in any year; except that one crew member per vessel need not be registered; ~~and~~
  - b. The maximum number of crew members registered at any one time shall be 15; and
  - ~~b. c.~~ c. Any crew registration list submitted by any commercial hook-and-line ~~fishermen~~ fisherman may be revised ~~twice~~ once per year.
3. Fail to display prominently the commercial hook-and-line license plates, as provided by the commission, on the starboard and port sides of the vessel.
4. Fish within 300 yards of any bridge, bridge-tunnel, jetty or pier from 6 p.m. Friday through 6 p.m. Sunday.
5. Fish within 300 yards of any fixed fishing device.
6. Harvest black drum within 300 yards of the Chesapeake Bay-Bridge-Tunnel at any time.
7. Fish recreationally on any commercial hook and line vessel during a commercial fishing trip.
8. Use any hydraulic fishing gear or deck-mounted fishing equipment.
9. Use any fishing rod and reel or hand line equipped with more than six hooks.

10. Fish commercially with hook and line aboard any vessel licensed as a charter boat or head boat while carrying customers for recreational fishing.

B. It shall be unlawful for any person to use a commercial hook and line within 300 feet of any bridge, bridge-tunnel, jetty, or pier during Thanksgiving Day and the following day or during any open recreational striped bass season in the Chesapeake Bay and its tributaries, except during the period midnight Sunday through 6 a.m. Friday.

FORMS (4VAC20-995)

[Commercial Hook-and-Line License Transfer Application \(rev. 12/08\).](#)

VA.R. Doc. No. R11-2650; Filed November 29, 2010, 3:54 p.m.

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## **TITLE 8. EDUCATION**

### **STATE BOARD OF EDUCATION**

#### **Final Regulation**

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

**Titles of Regulations:** **8VAC20-22. Licensure Regulations for School Personnel (amending 8VAC20-22-110).**

**8VAC20-542. Regulations Governing the Review and Approval of Education Programs in Virginia (amending 8VAC20-542-70, 8VAC20-542-100, 8VAC20-542-110, 8VAC20-542-120, 8VAC20-542-330).**

**Statutory Authority:** §§ 22.1-298.1 and 22.1-298.2 of the Code of Virginia.

**Effective Date:** January 19, 2011.

**Agency Contact:** Patty Pitts, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 371-2522, or email [patty.pitts@doe.virginia.gov](mailto:patty.pitts@doe.virginia.gov).

**Summary:**

*This regulatory action implements Chapter 814 of the 2010 Acts of Assembly that required the Board of Education to amend its regulations to require any individual seeking renewal of a license with an endorsement in early/primary preK-3, elementary education preK-6, middle education 6-8, history and social sciences, history, or political science*

*to complete study of the structures, function, and powers of state and local government of Virginia and the importance of citizen participation in the political process in state and local government of Virginia. The study may be satisfactorily completed using any applicable option described in the Virginia Licensure Renewal Manual. This requirement shall be met one time for the individual's next renewal after July 1, 2012.*

**8VAC20-22-110. Requirements for renewing a license.**

A. The Division Superintendent, Postgraduate Professional, Collegiate Professional, Technical Professional, Pupil Personnel Services, and School Manager Licenses may be renewed upon the completion of 180 professional development points within a five-year validity period based on an individualized professional development plan that includes ongoing, sustained, and high-quality professional development.

B. Virginia public school divisions and public education agencies must report annually to the Department of Education that instructional personnel have completed high quality professional development each year as set forth by the Virginia Department of Education.

C. Any individual seeking renewal of a license with an endorsement in early/primary preK-3, elementary education preK-6, middle education 6-8, history and social sciences, history, or political science must complete study of the structures, function, and powers of state and local government of Virginia and the importance of citizen participation in the political process in state and local government of Virginia. The study may be satisfactorily completed using any applicable option described in the Virginia Licensure Renewal Manual, effective September 21, 2007. This requirement shall be met one time for the individual's next renewal after July 1, 2012.

~~C.~~ D. Professional development points may be accrued by the completion of professional development activities to improve and increase instructional personnel's knowledge of the academic subjects the teachers teach or the area assigned from one or more of the following eight options.

1. College credit. Acceptable coursework offers content that provides new information and is offered on-campus, off-campus, or through extension by any regionally accredited two- or four-year college or university. College coursework must develop further experiences in subject content taught, teaching strategies, uses of technologies, leadership, and other essential elements in teaching to high standards and increasing student learning. At least 90 points for each five-year renewal shall be in the content area(s) currently being taught if the license holder does not hold a graduate degree. Instructional personnel must complete coursework to improve and increase the

knowledge of the academic subjects or endorsement areas in which they are assigned.

2. Professional conference. A professional conference is a workshop, institute, or seminar of four or more hours that contributes to ongoing, sustained, and high-quality professional development.

3. Curriculum development. Curriculum development is a group activity in which the license holder contributes to the improvement of the curriculum of a school, a school division, or an education institution in the teaching area assigned. This includes the alignment of curriculum frameworks, instructional materials, and assessments to provide a system with clear expectations of what is to be taught and learned.

4. Publication of article. The article must contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. Grant reports that present the results of educational research are acceptable provided the license holder had an active role in planning, analyzing, interpreting, demonstrating, disseminating, or evaluating the study or innovation. The article must be published in a recognized professional journal.

5. Publication of book. Books must be published for purchase and must contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. The published book must increase the field of content knowledge, planning and assessment for evaluating and providing students with feedback that encourages student progress and measures student achievement, instruction, safety and learning environment, communication and community relations working with students, parents, and members of the community to promote broad support for student learning. Points will not be awarded for books self-published.

6. Mentorship. Mentoring is the process by which an experienced professional, who has received mentorship training, provides assistance to one or more persons for the purpose of improving their performance. Assistance may involve role modeling, direct instruction, demonstration, observation with feedback, developing of plans, and consultation to promote instructional excellence and increased student achievement. Mentoring may include the supervision of a field experience of a preservice student teacher or an intern in an approved teacher/principal preparation program, as well as mentoring as part of the induction process for a beginning teacher or a first-year administrator. Individuals serving in this role and submitting documentation for license renewal based on the mentorship option shall receive training as a mentor prior to the assignment and at least once during the five-year renewal cycle.

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7. Educational project. Educational projects must be planned, focused projects based on high standards of teaching and learning. Projects must result in a written report or other tangible product. Projects must contribute to the education profession or to the body of knowledge of the license holder's teaching area or instructional position. A project could include participation in new professional responsibilities, such as leading a school improvement initiative.

8. Professional development activity. Professional development activities must focus on student learning and achievement, schoolwide educational improvement, leadership, subject content, teaching strategies, and use of technologies and other essential elements in teaching to high standards. Activities must be planned, rigorous, systematic, and promote continuous inquiry and reflection. Local employing educational agencies are encouraged to design professional development activities that are conducted in school settings and linked to student learning and achievement.

~~D.~~ E. A minimum of 90 points (three semester hours in a content area) at the undergraduate (two-year or four-year institution) or graduate level in the license holder's endorsement areas shall be required of license holders without a master's degree and may be satisfied at the undergraduate (two-year or four-year institution) or graduate level. Special education coursework designed to assist classroom teachers and other school personnel in working with students with disabilities, a course in gifted education, a course in educational technology, or a course in English as a second language may be completed to satisfy the content course requirement for one cycle of the renewal process. Professional development activities designed to support the Virginia Standards of Learning, Standards of Accreditation, and Assessments may be accepted in lieu of the content course for one renewal cycle. The substance of the activities must clearly support these initiatives and address one or more of the following areas: (i) new content knowledge to implement the Virginia Standards of Learning; (ii) curriculum development initiative designed to translate the standards from standards to classroom objectives; (iii) teaching beginning reading skills including phonemic awareness and the structure of language (phonics); (iv) staff development activities in assessment to assist classroom teachers in the utilization of test results to improve classroom instruction; and (v) professional development designed to implement the technology standards in the schools. Technical Professional License holders without baccalaureate degrees may satisfy the requirement through career and technical education workshops, career and technical education institutes, or through undergraduate coursework at two-year or four-year institutions.

~~E.~~ F. Content area courses are courses at the undergraduate level (two-year or four-year institution) or at the graduate

level that will not duplicate previous courses taken in the humanities, history and social sciences, the sciences, mathematics, health and physical education, and the fine arts. These courses are usually available through the college or department of arts and sciences. License holders with elementary education, middle education, special education, or reading endorsements must satisfy the 90-point requirement through reading coursework or content coursework in one of the areas listed above. Courses available through a regionally accredited college's or institution's department of education may be used to satisfy the content requirement for those license holders with endorsements in health and physical education, career and technical education, and library science education.

~~F.~~ G. With prior approval of the division superintendent, the 90 points in a content area also may be satisfied through coursework taken to obtain a new teaching endorsement or coursework taken because of a particular need of a particular teacher.

~~G.~~ H. The remaining 90 points may be accrued by activities drawn from one or more of the eight renewal options. Renewal work is designed to provide licensed personnel with opportunities for professional development relative to the grade levels or teaching fields to which they are assigned or for which they seek an added endorsement. Such professional development encompasses (i) responsible remediation of any area of an individual's knowledge or skills that fail to meet the standards of competency and (ii) responsible efforts to increase the individual's knowledge of new developments in his field and to respond to new curricular demands within the person's area of professional competence.

~~H.~~ I. The proposed work toward renewal in certain options must be approved in advance by the chief executive officer or designee of the employing educational agency. Persons who are not employed by an educational agency may renew or reinstate their license by submitting to the Office of Professional Licensure, Department of Education, their individualized renewal record and verification of points, including official student transcripts of coursework taken at an accredited two-year or four-year college or university.

~~I.~~ J. Accrual of professional development points shall be determined by criteria set forth by the Virginia Department of Education.

~~J.~~ K. Persons seeking license renewal as teachers must demonstrate proficiency in the use of educational technology for instruction.

~~K.~~ L. Virginia school divisions and nonpublic schools will recommend renewal of licenses using the renewal point system. The renewal recommendation must include verification of demonstrated proficiency in the use of educational technology for instruction.

~~L. M.~~ Training in instructional methods tailored to promote academic progress and effective preparation for the Standards of Learning tests and end-of-grade assessments is required for licensure renewal.

~~M. N.~~ If they have not already met the requirement, persons seeking licensure renewal as teachers must complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes.

DOCUMENTS INCORPORATED BY REFERENCE  
(8VAC20-22)

[Virginia Licensure Renewal Manual, eff. September 21, 2007, Virginia Department of Education.](#)

Part VII  
Competencies for Endorsement Areas

Article 1  
General Competencies

**8VAC20-542-70. Competencies for endorsement areas.**

A. The professional education program develops, maintains, and continuously evaluates high quality professional education programs that are collaboratively designed and based on identified needs of the preK-12 community. Candidates in education programs for teachers demonstrate competence in the core academic content areas that they plan to teach. The indicator of the achievement of this standard shall include the following:

Candidates demonstrate an understanding of competencies including the core concepts and facts of the disciplines and the Virginia Standards of Learning for the content areas they plan to teach.

B. All teacher education programs in early/primary preK-3, elementary education preK-6, middle education 6-8, and history and social sciences must include local government and civics instruction specific to Virginia.

**8VAC20-542-100. Early/primary education preK-3.**

The program for early/primary education preK-3 shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

- a. Understanding of the knowledge, skills, and processes to support learners in achievement of the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer/technology;
- b. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;

- c. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, abilities, and achievement;
- d. The use of appropriate methods including those in visual and performing arts , to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem solve;
- e. The ability to utilize effective classroom management skills through methods that shall build responsibility and self-discipline and maintain a positive learning environment;
- f. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, children with limited proficiency in English, and children with diverse cultural needs;
- g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;
- h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;
- i. The ability to analyze, evaluate, apply quantitative and qualitative research; and
- j. The ability to use technology as a tool for teaching, learning, research, and communication.

2. Knowledge and skills.

a. Reading/English. Understanding of the content, knowledge, skills, and processes for teaching the Virginia Standards of Learning for English including: oral language (speaking and listening), reading, and writing, and how these standards provide the core for teaching English in grades preK-3 (early/primary licensure).

(1) Assessment and diagnostic teaching. The individual shall:

(a) Be proficient in the use of both formal and informal assessment and screening measures for the component of reading: phoneme awareness, letter recognition, decoding, fluency, vocabulary, reading levels, and comprehension; and

(b) Be proficient in the ability to use diagnostic data to tailor instruction for acceleration, intervention, remediation, and flexible skill-level groupings.

(2) Oral communication. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching oral language (speaking and listening);

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(b) Be proficient in developing students' phonological awareness skills;

(c) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects;

(d) Demonstrate the ability to promote creative thinking and expression, as through storytelling, drama, choral/oral reading, etc.

(3) Reading/literature. The individual shall:

(a) Be proficient in explicit phonics instruction, including an understanding of sound/symbol relationships, syllables, phonemes, morphemes, decoding skills, and word attack skills;

(b) Be proficient in strategies to increase vocabulary/concept development;

(c) Be proficient in the structure of the English language, including an understanding of syntax;

(d) Be proficient in reading comprehension strategies for both fiction and nonfiction text predicting, retelling, summarizing and guiding students to make connections beyond the text;

(e) Demonstrate the ability to develop comprehension skills in all content areas;

(f) Demonstrate the ability to foster the appreciation of a variety of literature; and

(g) Understand the importance of promoting independent reading by selecting fiction and nonfiction books, at appropriate reading levels.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing, written expression, and usage and mechanics and the writing process of planning, drafting, revising, editing, and sharing;

(b) Be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling," orthographic patterns, and strategies for promoting generalization of spelling study to writing; and

(c) Demonstrate the ability to teach the writing process: plan, draft, revise, edit, and share in the narrative, descriptive, and explanative modes.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading and writing.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-3. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(a) Number systems, their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion and percent;

(c) Algebra: operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities, linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic form of functions;

(d) Geometry: geometric figures, their properties, relationships, Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two- and three-dimensional figures; coordinate and transformational geometry; and constructions;

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; prediction; graphical representations including box-and-whisker plots; measures of central tendency, range, and normal distribution; and

(f) Computer science: terminology, simple programming, and software applications.

(2) Understanding of the sequential nature of mathematics.

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes – reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical representations at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics, and the role of mathematics in culture and society.

(6) Understanding of the role of technology and the ability to use calculators and computers in the teaching and learning of mathematics.

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined in the Virginia Standards of Learning and how

the standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to American social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of American's constitutional republic, its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth.

(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the rule of law for the protection of individual rights;

(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government; ~~and~~

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by the basic principles of a republican form of government and a common identity as Americans; and

(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and the social sciences, and how the study of the disciplines assists students in developing critical thinking skills in helping them to understand:

(a) The relationship between past and present;

(b) The use of primary sources such as artifacts, letters, photographs, and newspapers;

(c) How events in history are shaped both by the ideas and actions of people;

(d) Diverse cultures and shared humanity;

(e) Civic participation in a democracy; and

(f) The relationship between history, literature, art, and music.

d. Science.

(1) Understanding of the knowledge, skills, and processes of the earth, life, and physical sciences as defined in the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the elementary grades.

(2) Understanding of the nature of science and scientific inquiry, including:

(a) The role of science in explaining and predicting events and phenomena; and

(b) The science skills of data analysis, measurement, observation, prediction, and experimentation.

(3) Understanding of the knowledge, skills, and processes for an active elementary science program, including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Conduct research projects and experiments in a safe environment;

(c) Organize key science content into meaningful units of instruction;

(d) Adapt instruction to diverse learners using a variety of techniques;

(e) Evaluate instructional materials, instruction, and student achievement; and

(f) Incorporate instructional technology to enhance student performance in science.

(4) Understanding of the content, processes, and skills of the Earth sciences, biology, chemistry, and physics supporting the teaching of elementary school science as defined by the Virginia Science Standards of Learning and equivalent to academic course work in each of these core science areas.

(5) Understanding of the core scientific disciplines to ensure:

(a) The ability to teach the processes and organizing concepts common to the natural and physical sciences; and

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- (b) Student achievement in science.
- (6) Understanding of the contributions and significance of science, including:
  - (a) Its social and cultural significance;
  - (b) The relationship of science to technology; and
  - (c) The historical development of scientific concepts and scientific reasoning.

## **8VAC20-542-110. Elementary education preK-6.**

The program in elementary education preK-6 may require that the candidate has completed an undergraduate major in interdisciplinary studies (focusing on the areas of English, mathematics, history and social sciences, and science) or in Virginia's core academic areas of English, mathematics, history and social sciences (i.e., history, government, geography and economics), or science and demonstrated the following competencies:

### 1. Methods.

- a. Understanding of the needed knowledge, skills, and processes to support learners in achievement of the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer/technology;
- b. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;
- c. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, abilities, and achievement;
- d. The use of appropriate methods, including those in visual and performing arts, to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem solve;
- e. The ability to utilize effective classroom and behavior management skills through methods that shall build responsibility and self-discipline and maintain a positive learning environment;
- f. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, and children with limited proficiency in English, and children with diverse cultural needs;
- g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;
- h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

- i. The ability to analyze, evaluate, and apply, quantitative and qualitative research; and
- j. The ability to use technology as a tool for teaching, learning, research, and communication.

### 2. Knowledge and skills.

a. Reading/English. Understanding of the content, knowledge, skills, and processes for teaching the Virginia Standards of Learning for English including: oral language (speaking and listening), reading, writing, and literature, and how these standards provide the core for teaching English in grades preK-6 (elementary licensure).

(1) Assessment and diagnostic teaching. The individual shall:

- (a) Be proficient in the use of both formal and informal assessment and screening measures for the components of reading: phoneme awareness, letter recognition, decoding, fluency, vocabulary, reading level, and comprehension; and
- (b) Be proficient in the ability to use diagnostic data to tailor instruction, for acceleration, intervention, remediation and flexible skill-level groupings.

(2) Oral communication. The individual shall:

- (a) Be proficient in the knowledge, skills, and processes necessary for teaching oral language (speaking and listening);
- (b) Be proficient in developing students' phonological awareness skills;
- (c) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects; and
- (d) Demonstrate the ability to promote creative thinking and expression, as through storytelling, drama, choral/oral reading, etc.

(3) Reading/literature. The individual shall:

- (a) Be proficient in explicit phonics instruction, including an understanding of sound/symbol relationships, syllables, phonemes, morphemes, decoding skills, and word attack skills;
- (b) Be proficient in strategies to increase vocabulary/concept development;
- (c) Be proficient in the structure of the English language, including an understanding of syntax and semantics;
- (d) Be proficient in reading comprehension strategies for both fiction and nonfiction text, including questioning, predicting, summarizing, clarifying, and associating the unknown with what is known;

(e) Demonstrate the ability to develop comprehension skills in all content areas;

(f) Demonstrate the ability to foster appreciation of a variety of literature; and

(g) Understand the importance of promoting independent reading by selecting fiction and nonfiction books, at appropriate reading levels.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing, written expression, and usage and mechanics and the writing process of planning, drafting, revising, editing, and sharing;

(b) Be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling," orthographic patterns, and strategies for promoting generalization of spelling study to writing; and

(c) Demonstrate the ability to teach the writing process: plan draft, revise, edit, and share in the narrative, descriptive, and explanative modes.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading, writing, and research.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-6. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(a) Number systems, their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion and percent;

(c) Algebra: operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities, linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic form of functions;

(d) Geometry: geometric figures, their properties, relationships, Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two- and three-dimensional figures; coordinate and transformational geometry; and constructions;

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; prediction; graphical representations including box-and-whisker plots; measures of central tendency, range, and normal distribution; and

(f) Computer science: terminology, simple programming, and software applications.

(2) Understanding of the sequential nature of mathematics.

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes – reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical representations at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics, and the role of mathematics in culture and society.

(6) Understanding of the role of technology and the ability to use calculators and computers in the teaching and learning of mathematics.

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social sciences disciplines as defined in the Virginia Standards of Learning and how the standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to American social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of America's constitutional republic, its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth;



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(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the Rule of Law for the protection of individual rights;

(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government; ~~and~~

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by basic principles of a republican form of government and a common identity as Americans; and

(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and social sciences and how the study of the disciplines assists students in developing critical thinking skills in helping them to understand:

(a) The relationship between past and present;

(b) The use of primary sources such as artifacts, letters, photographs, and newspapers;

(c) How events in history are shaped both by the ideas and actions of people;

(d) Diverse cultures and shared humanity;

(e) Civic participation in a democracy; and

(f) The relationship between history, literature, art, and music.

d. Science.

(1) Understanding of the knowledge, skills, and processes of the earth, life, and physical sciences as defined in the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the elementary grades;

(2) Understanding of the nature of science and scientific inquiry, including:

(a) The role of science in explaining and predicting events and phenomena; and

(b) The science skills of data analysis, measurement, observation, prediction, and experimentation.

(3) Understanding of the knowledge, skills, and processes for an active elementary science program including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Conduct research projects and experiments in a safe environment;

(c) Organize key science content into meaningful units of instruction;

(d) Adapt instruction to diverse learners using a variety of techniques;

(e) Evaluate instructional materials, instruction, and student achievement; and

(f) Incorporate instructional technology to enhance student performance in science.

(4) Understanding of the content, processes, and skills of the Earth sciences, biology, chemistry, and physics supporting the teaching of elementary school science as defined by the Virginia Science Standards of Learning and equivalent course work reflecting each of these core science areas.

(5) Understanding of the core scientific disciplines to ensure:

(a) The ability to teach the processes and organizing concepts common to the natural and physical sciences; and

(b) Student achievement in science.

(6) Understanding of the contributions and significance of science including:

(a) Its social and cultural significance;

(b) The relationship of science to technology; and

(c) The historical development of scientific concepts and scientific reasoning.

**8VAC20-542-120. Middle education 6-8.**

The program in middle education 6-8 with at least one area of academic preparation shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

a. Understanding of the required knowledge, skills, and processes to support learners in achievement of the Virginia Standards of Learning for grades 6-8;

b. The use of appropriate methods, including direct instruction, to help learners develop knowledge and skills, sustain intellectual curiosity, and solve problems;

- c. The ability to plan and teach collaboratively to facilitate interdisciplinary learning;
  - d. The use of differentiated instruction and flexible groupings to meet the needs of preadolescents at different stages of development, abilities, and achievement;
  - e. The ability to utilize effective classroom and behavior management skills through methods that shall build responsibility and self-discipline and maintain a positive learning environment;
  - f. The ability to modify and manage learning environments and experiences to meet the individual needs of preadolescents, including children with disabilities, gifted children, and children with limited proficiency in the English language;
  - g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;
  - h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;
  - i. The ability to analyze, evaluate, apply, and conduct quantitative and qualitative research;
  - j. The ability to use technology as a tool for teaching, learning, research, and communication;
  - k. An understanding of how to apply a variety of school organizational structures, schedules, groupings, and classroom formats appropriately for middle level learners;
  - l. Skill in promoting the development of all students' abilities for academic achievement and continued learning; and
  - m. The ability to use reading in the content area strategies appropriate to text and student needs.
2. English.
- a. Possession of the skills necessary to teach the writing process, to differentiate among the forms of writing (narrative, descriptive, informational, and persuasive), and to use computers and other available technology;
  - b. Understanding of and knowledge in grammar, usage, and mechanics and its integration in writing;
  - c. Understanding and the nature and development of language and its impact on vocabulary development and spelling;
  - d. Understanding of and knowledge in techniques and strategies to enhance reading comprehension and fluency;
  - e. Understanding of and knowledge in the instruction of speaking, and listening, and note taking; and
  - f. Knowledge of varied works from current and classic young adult literature appropriate for English instruction of fiction, nonfiction, and poetry.
3. History and social sciences.
- a. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of Learning and how the standards provide the foundation for teaching history and social sciences, including in:
    - (1) United States history.
      - (a) The evolution of the American constitutional republic and its ideas, institutions, and practices from the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (Declaration of American Independence, the general principles of the Constitution of the United States, the Virginia Statute of Religious Freedom, the charters of April 10, 1606, May 23, 1609, and March 12, 1612, of The Virginia Company, and the Virginia Declaration of Rights), and historical challenges to the American political system (i.e., slavery, the Civil War, emancipation, and civil rights);
      - (b) The influence of religious traditions on the American heritage and on contemporary American society;
      - (c) The changing role of America around the world; the relationship between domestic affairs and foreign policy; global political and economic interactions;
      - (d) The influence of immigration on American political, social, and economic life;
      - (e) Origins, effects, aftermath and significance of the two world wars, the Korean and Vietnam conflicts, and the Post-Cold War Era;
      - (f) Social, political, and economic transformations in American life during the 20th century; and
      - (g) Tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and between cultural diversity and civic unity.
    - (2) World history.
      - (a) The political, philosophical, and cultural legacies of ancient, American, Asian, African, and European civilizations;
      - (b) Origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist and Islamic religious traditions;

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(c) Medieval society and institutions; relations with Islam; feudalism and the evolution of representative government;

(d) The social, political, and economic contributions of selected civilizations in Africa, Asia, Europe, and the Americas;

(e) The culture and ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(f) The cultural ideas of the Enlightenment and the intellectual revolution of the 17th and 18th centuries;

(g) The sources, results, and influence of the American and French revolutions;

(h) The social consequences of the Industrial Revolution and its impact on politics and culture;

(i) The global influence of European ideologies of the 19th and 20th centuries (liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, and Nazism); and

(j) The origins, effects, aftermath, and significance of the two world wars.

(3) Civics and economics.

(a) Essential characteristics of limited and unlimited governments;

(b) Importance of the Rule of Law for the protection of individual rights and the common good;

(c) Rights and responsibilities of American citizenship;

(d) Nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(e) American political culture;

(f) Values and principles of the American constitutional republic;

(g) Structures, functions, and powers of local and state government;

(h) Importance of citizen participation in the political process in local and state government;

(i) ~~Structures, functions, and powers of the national government;~~ and Local government and civics instruction specific to Virginia;

(j) ~~The structure and function of the United States market economy as compared with other economies.~~ Structures, functions, and powers of the national government; and

(k) The structure and function of the United States market economy as compared with other economies.

b. Understanding of the nature of history and social sciences and how the study of these disciplines helps students go beyond critical thinking skills to help them appreciate:

(1) The significance of the past to their lives and to society;

(2) Diverse cultures and shared humanity;

(3) How things happen, how they change, and how human intervention matters;

(4) The interplay of change and continuity;

(5) Historical cause and effect;

(6) The importance of individuals who have made a difference in history and the significance of personal character to the future of society;

(7) The relationship among history, geography, civics, and economics; and

(8) The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions.

## 4. Mathematics.

a. Understanding of the knowledge and skills necessary to teach the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

b. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number and number sense; computation and estimation; geometry and measurement; statistics and probability; patterns, functions, and algebra;

c. Understanding of the sequential nature of mathematics and the mathematical structures inherent in the content strands;

d. Understanding of and the ability to use the five processes - becoming mathematical problem solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and representing and describing mathematical ideas, generalizations, and relationships using a variety of methods - at different levels of complexity;

e. Understanding of the history of mathematics, including the contributions of various individuals and cultures toward the development of mathematics, and the role of mathematics in culture and society;

f. Understanding of the major current curriculum studies and trends in mathematics;

g. Understanding of the role of technology and the ability to use graphing utilities and computers in the teaching and learning of mathematics;

h. Understanding of and the ability to select, adapt, evaluate and use instructional materials and resources, including professional journals and technology;

i. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors; and

j. Understanding of and the ability to use strategies to teach mathematics to diverse learners.

## 5. Science.

a. Understanding of the knowledge, skills, and processes of the Earth, life, and physical sciences as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching science in the middle grades.

b. Understanding of the nature of science and scientific inquiry, including:

- (1) Function of research design and experimentation;
- (2) Role of science in explaining and predicting events and phenomena; and
- (3) Science skills of data analysis, measurement, observation, prediction, and experimentation.

c. Understanding of the knowledge, skills, and processes for an active middle school science program, including the ability to:

- (1) Design instruction reflecting the goals of the Virginia Science Standards of Learning;
- (2) Conduct research projects and experiments;
- (3) Implement safety rules/procedures and ensure that students take appropriate safety precautions;
- (4) Organize key science content into meaningful units of instruction;
- (5) Adapt instruction to diverse learners using a variety of techniques;
- (6) Evaluate instructional materials, instruction, and student achievement; and
- (7) Incorporate instructional technology to enhance student performance in science.

d. Understanding of the content, processes, and skills of the Earth sciences, biology, chemistry, and physics supporting the teaching of middle school science as defined by the Virginia Science Standards of Learning and equivalent to academic course work in each of these core science areas.

e. Understanding of the core scientific disciplines to ensure:

- (1) The placement of science in an appropriate interdisciplinary context;
- (2) The ability to teach the processes and organize concepts common to the natural and physical sciences; and
- (3) Student achievement in science.

f. Understanding of the contributions and significance of science to include:

- (1) Its social and cultural significance;
- (2) The relationship of science to technology; and
- (3) The historical development of scientific concepts and scientific reasoning.

## **5VAC20-542-330. History and social sciences.**

The program in history and social sciences shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of Learning and how the standards provide the foundation for teaching history and the social sciences, including in:

a. United States history.

- (1) The evolution of the American constitutional republic and its ideas, institutions, and practices from the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (Declaration of American Independence, the general principles of the Constitution of the United States, the Virginia Statute of Religious Freedom, the charters of April 10, 1606, May 23, 1609, and March 12, 1612, of the Virginia Company, and the Virginia Declaration of Rights); and historical challenges to the American political system;
- (2) The influence of religious traditions on American heritage and contemporary American society;
- (3) The influence of immigration on American political, social, and economic life;
- (4) The origins, effects, aftermath and significance of the two world wars, the Korean and Vietnam conflicts, and the Post-Cold War Era;
- (5) The social, political, and economic transformations in American life during the 20th century;
- (6) The tensions between liberty and equality, liberty and order, region and nation, individualism and the common

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# Regulations

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welfare, and between cultural diversity and national unity; and

(7) The difference between a democracy and a republic.

b. World history.

(1) The political, philosophical, and cultural legacies of ancient American, Asian, African, and European civilizations;

(2) The origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist and Islamic religious traditions;

(3) Medieval society, institutions, and civilizations; feudalism and the evolution of representative government;

(4) The social, political, and economic contributions of selected civilizations in Africa, Asia, Europe, and the Americas;

(5) The culture and ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(6) The cultural ideas of the Enlightenment and the intellectual revolution of the 17th and 18th centuries;

(7) The sources, results, and influences of the American and French revolutions;

(8) The social consequences of the Industrial Revolution and its impact on politics and culture;

(9) The global influence of European ideologies of the 19th and 20th centuries (liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, and Nazism); and

(10) The origins, effects, aftermath and significance of the two world wars, the Korean and Vietnam conflicts, and the Post-Cold War Era.

c. Civics/government and economics.

(1) The essential characteristics of limited and unlimited governments;

(2) The importance of the Rule of Law for the protection of individual rights and the common good;

(3) The rights and responsibilities of American citizenship;

(4) The nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(5) American political culture;

(6) Values and principles of the American constitutional republic;

(7) The structures, functions, and powers of local and state government;

(8) Importance of citizen participation in the political process in local and state government;

(9) Local government and civics instruction specific to Virginia;

~~(9)~~ (10) The structures, functions, and powers of the national government;

~~(10)~~ (11) The role of the United States in foreign policy and national security;

~~(11)~~ (12) The structure of the federal judiciary;

~~(12)~~ (13) The structure and function of the United States market economy as compared with other economies;

~~(13)~~ (14) Knowledge of the impact of the government role in the economy and individual economic and political freedoms;

~~(14)~~ (15) Knowledge of economic systems in the areas of productivity and key economic indicators; and

~~(15)~~ (16) The analysis of global economic trends.

d. Geography.

(1) Use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(2) Physical and human characteristics of places;

(3) Relationship between human activity and the physical environment;

(4) Physical processes that shape the surface of the earth;

(5) Characteristics and distribution of ecosystems on the earth;

(6) Characteristics, distribution, and migration of human populations;

(7) Patterns and networks of economic interdependence;

(8) Processes, patterns, and functions of human settlement;

(9) How the forces of conflict and cooperation influence the division and control of the earth's surface;

(10) How physical systems affect human systems;

(11) Changes that occur in the meaning, use, distribution, and importance of resources; and

(12) Applying geography to interpret the past and the present and to plan for the future.

2. Understanding of history and social sciences to appreciate the significance of:

- a. Diverse cultures and shared humanity;
- b. How things happen, how they change, and how human intervention matters;
- c. The interplay of change and continuity;
- d. How people in other times and places have struggled with fundamental questions of truth, justice, and personal responsibility;
- e. The importance of individuals who have made a difference in history and the significance of personal character to the future of society;
- f. The relationship among history, geography, civics, and economics;
- g. The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions;
- h. How ideas have real consequences;
- i. The importance of primary documents and the potential problems with second-hand accounts; and
- j. How scientific and technological advances affect the workplace, healthcare, and education.

3. Understanding of the use of the content and processes of history and social sciences instruction, including:

- a. Fluency in historical analysis skills;
- b. Skill in debate, discussion, and persuasive writing;
- c. The ability to organize key social science content into meaningful units of instruction;
- d. The ability to provide instruction using a variety of instructional techniques;
- e. The ability to evaluate primary and secondary instructional resources, instruction, and student achievement; and
- f. The ability to incorporate appropriate technologies into social science instruction.

4. Understanding of the content, processes, and skills of one of the social sciences disciplines at a level equivalent to an undergraduate major, along with sufficient understanding of the three supporting disciplines to ensure:

- a. The ability to teach the processes and organizing concepts of social science;
- b. An understanding of the significance of the social sciences;
- c. Student achievement in the social sciences; and
- d. An understanding of the media influence on contemporary America.

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

VA.R. Doc. No. R11-2680; Filed November 30, 2010, 7:55 a.m.

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# GENERAL NOTICES/ERRATA

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## STATE BOARD OF EDUCATION

### Seeking Public Comment: College Partnership Laboratory Schools

The Board of Education is seeking public comment on its proposed criteria, procedures, and application for college partnership laboratory schools, pursuant to HB 1389 and SB 736 (2010 Session of the General Assembly). See: <http://www.doe.virginia.gov/administrators/index.shtml>.

Section 23-299 of the Code of Virginia defines a college partnership laboratory school as "a public, nonsectarian, nonreligious school established by a public institution of higher education that operates a teacher education program approved by the Virginia Board of Education (Board)." College partnership laboratory schools are public schools established by contract between the governing board of a college partnership laboratory school and the Board of Education. The members of the governing board are selected by the institution of higher education establishing the college partnership laboratory school.

The Board of Education authorized 30 days of public comment on the matter at its November 18, 2010, meeting. The board is expected to review the public comment and take final action on this item at its meeting on January 13, 2011.

Please submit comments by email, U.S. mail, or FAX by December 31, 2010, to the agency contact listed below.

Contact for additional information: Anne D. Wescott, Assistant Superintendent for Policy and Communications, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

### Seeking Public Comment: Criteria, Procedures, and Application for Public Charter Schools

The Board of Education is seeking public comment on its proposed criteria, procedures, and application for public charter schools, pursuant to HB 1390 and SB 737 (2010 Session of the General Assembly). See: <http://www.doe.virginia.gov/administrators/index.shtml>.

Section 22.1-212.9 of the Code of Virginia requires all applications for public charter schools to be submitted to the Virginia Board of Education for review prior to submission of the application to the local school board. The board is required to establish procedures of receiving and reviewing applications, and making a determination as to whether the application meets approval criteria developed by the board. The Code further provides that the board's review would examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the board may establish, consistent with existing state law.

The Board of Education authorized 30 days of public comment on the proposed criteria (attached) at its November 18, 2010, meeting. The board is expected to review the public comment and take final action on this item at its meeting on January 13, 2011.

Please submit comments by email, U.S. mail, or FAX by December 31, 2010, to the agency contact listed below.

Contact for additional information: Anne D. Wescott, Assistant Superintendent for Policy and Communications, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

### Seeking Public Comment: Homebound Instructional Services

In response to HB 257 (2010 Session of the General Assembly), the Board of Education is seeking public comment on its Regulations Establishing Standards of Accrediting Public Schools in Virginia (Standards of Accreditation) as the regulations relate to homebound instructional services. HB 257 states:

Be it enacted by the General Assembly of Virginia:

1. § 1. That the Board of Education shall review its Regulations Establishing Standards for Accrediting Public Schools in Virginia (8VAC20-131) as they relate to homebound instructional services to address whether homebound instruction may be made available to students who are confined at home or in a health care facility for periods that would prevent normal school attendance based upon evidence submitted by any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions.

Currently, 8VAC20-131-180 A of the Standards of Accreditation provides, in part, that:

Homebound instruction shall be made available to students who are confined at home or in a health care facility for periods that would prevent normal school attendance based upon certification of need by a licensed physician or licensed clinical psychologist....

The Board of Education authorized 30 days of public comment on the matter at its November 18, 2010, meeting. The agenda item may be found at [http://www.doe.virginia.gov/boe/meetings/2010/11\\_nov/agenda\\_items/item\\_c.pdf](http://www.doe.virginia.gov/boe/meetings/2010/11_nov/agenda_items/item_c.pdf). The board is expected to review the public comment and make a determination as to whether to revise the Standards of Accreditation related to homebound instruction at its meeting on January 13, 2011.

Please submit comments by email, U.S. mail, or FAX by December 28, 2010, to the agency contact listed below.

Contact for additional information: Anne Wescott, Assistant Superintendent for Policy and Communication, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

### **Seeking Public Comment: Regulations Establishing Standards of Accrediting Public Schools**

In response to HB 1199, passed by the 2010 General Assembly, the Board of Education is seeking public comment on its Regulations Establishing Standards of Accrediting Public Schools in Virginia (Standards of Accreditation) as the regulations relate to homebound instructional services. HB 1199 says that in establishing course and credit requirements for a high school diploma, the board shall:

"... Provide for the waiver of certain graduation requirements (i) upon the board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis."

Currently, 8VAC20-131-350 of the Standards of Accreditation provides that:

"Waivers of some of the requirements of these regulations may be granted by the Board of Education based on submission of a request from the division superintendent and chairman of the local school board. The request shall include documentation of the need for the waiver. In no event shall waivers be granted to the requirements of Part III (8VAC20-131-30 et seq.) of these regulations."

The Board of Education proposes to add the following to 8VAC20-131-350:

"Except that the Board of Education may provide for the waiver of certain graduation requirements in 8VAC20-131-50 (i) upon the board's initiative or (ii) at the request of a local school board on a case-by-case basis in accordance with guidelines established by the board."

The Board of Education also proposes to add the following to its Guidance Document Governing Certain Provisions of the Regulations Establishing Standards for Accrediting Public Schools in Virginia related to the waiver provision:

"The Board of Education may waive certain graduation requirements in 8VAC20-131-50 by resolution. The resolution shall specify the requirement(s) being waived and, if the waiver is time-limited, when the waiver would expire.

Local school boards may seek a waiver of certain graduation requirements in 8VAC20-131-50 on a case-by-case basis by submitting a request to the Superintendent of Public Instruction, on behalf of the board, which explains what requirement(s) are requested to be waived and the justification for each requirement(s) requested for waiver.

The justification shall include a statement of the efforts made by the local school board to assist the student to meet the requirement(s) prior to requesting the waiver.

Such waiver requests may not be submitted more than 90 days prior to the date the student is expected to graduate.

The Superintendent may approve the waiver on behalf of the board and report to the board waivers that have been granted or denied.

For the purposes of this provision, good cause may include, but not be limited to, a catastrophic, sudden, or debilitating illness or injury suffered by the student late in his high school career or a sudden, unexpected requirement or event that causes the family to relocate to another state where the student is unable to complete graduation requirements either in Virginia or the receiving state.

In no event shall a waiver be granted that would substantially reduce or diminish the integrity of the diplomas approved by the Board of Education.

Requirements that have been approved for a waiver shall be noted on the student's official academic record (transcript)."

The Board of Education authorized 30 days of public comment on the matter at its November 18, 2010, meeting. The agenda item may be found at [http://www.doe.virginia.gov/boe/meetings/2010/11\\_nov/agenda\\_items/item\\_b.pdf](http://www.doe.virginia.gov/boe/meetings/2010/11_nov/agenda_items/item_b.pdf). The board is expected to review the public comment and take final action on this item at its meeting on January 13, 2011.

Please submit your comments by email, U.S. mail, or FAX by December 28, 2010. Send comments to the agency contact listed below.

Contact for additional information: Anne Wescott, Assistant Superintendent for Policy and Communication, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

### **Seeking Public Comment: Standards of Quality**

In response to § 22.1-18.01 of the Code of Virginia, which requires the Board of Education to review the Standards of Quality in even-numbered years, the board is seeking public comment on its proposal to reaffirm its 2009 proposed policy directions, options for revisions to the Standards of Quality, and issues for further study, which may be found at [http://www.doe.virginia.gov/boe/meetings/2010/11\\_nov/agenda\\_items/item\\_g.pdf](http://www.doe.virginia.gov/boe/meetings/2010/11_nov/agenda_items/item_g.pdf).

The Board of Education authorized 30 days of public comment on the matter at its November 18, 2010, meeting. The board is expected to review the public comment and take final action on this item at its meeting on January 13, 2011.



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## General Notices/Errata

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Please submit your comments by email, U.S. mail, or FAX by December 28, 2010. Send comments to the agency contact listed below.

Contact for additional information: Anne D. Wescott, Assistant Superintendent for Policy and Communication, Virginia Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email [anne.wescott@doe.virginia.gov](mailto:anne.wescott@doe.virginia.gov).

### DEPARTMENT OF ENVIRONMENTAL QUALITY

#### Public Notice for Callahan Creek in Wise County - Environmental Cleanup Plan

Purpose of notice: The Department of Environmental Quality (DEQ) and the Department of Mines Minerals and Energy announce a public meeting to develop a draft water quality cleanup plan (implementation plan) for Callahan Creek in Wise County. The agencies invite public participation and comments for the purpose of reducing pollutants to Callahan Creek.

Public comment period: January 20, 2011, to February 21, 2011.

Public meeting: Appalachia Civic Center, 142 Cold Spring Drive, Appalachia, Virginia, on January 20, 2011, from 6 p.m. to 8 p.m. In the event of inclement weather that causes closure of public schools, the meeting will be held on January 31, 2011.

Meeting description: This is the initial public meeting on development of a watershed cleanup plan (implementation plan).

Description of cleanup plan: DEQ has developed a total maximum daily load study (TMDL) for Callahan Creek in Wise County, Virginia. A TMDL is the total amount of a pollutant a stream can contain and still meet water quality standards. The stream has bacteria contamination that threatens human health and sediment and total dissolved solids contamination that has harmed the aquatic life in the stream. To restore water quality, contamination levels need to be reduced to the recommended TMDL amounts. The cleanup plan will define ways to reduce pollutant loading to the watershed. The approved TMDL report may be found at <https://www.deq.virginia.gov/TMDLDataSearch/ReportSearch.jsp>.

The Callahan Creek impaired stream segment includes about 5.1 miles of streams in the watershed. The length of Callahan Creek parallel to Callahan Avenue and Stonega Road from its confluence with Possum Trot Hollow downstream to the Powell River is included. The TMDL study identifies bacteria as the stressor for primary contact recreation, and sediment and conductivity/total dissolved solids as the stressors for aquatic life problems. Reductions in bacteria, sedimentation,

and conductivity/total dissolved solids are necessary so that the stream can meet the water quality standards.

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. DEQ also accepts written and oral comments at the public meeting. Additionally, information on implementation plans and how they are developed is available at the DEQ website.

Contact for additional information: Allen J. Newman, Virginia Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, VA 24212-1688, telephone (276) 676-4804, FAX (276) 676-4899, or email [allen.newman@deq.virginia.gov](mailto:allen.newman@deq.virginia.gov).

#### Notice of Public Comment for Modification of Appomattox River TMDL Report

Notice is hereby given that the Department of Environmental Quality (DEQ) seeks comment on proposed modifications to the bacteria total maximum daily load (TMDL) developed for the Appomattox River and Tributaries located in Appomattox, Buckingham, Cumberland, Prince Edward, Amelia, Nottoway, Powhatan, Chesterfield, Dinwiddie, and Prince George Counties and the Cities of Petersburg, Colonial Heights, and Hopewell, Virginia. A total maximum daily load of E. coli was developed to address the bacterial impairments in the Appomattox River Basin. This TMDL was approved by the Environmental Protection Agency (EPA) on August 30, 2004, and can be found at the following website: <http://www.deq.virginia.gov/tmdl/apptmdls/jamesrvr/app.pdf>.

DEQ seeks written comments from interested persons on the modification of this TMDL.

The Addison/Evans Water Production and Laboratory Facility (formerly Swift Creek Water Treatment Facility) (VPDES Permit #0006254) is an industrial minor facility that discharges to Swift Creek (segments 2 and 3) and the Appomattox River (segment 3). The facility was assigned a waste load allocation (WLA) of 1.05E+10 cfu/year in the TMDL for each segment based on the design flow of 0.006 million gallons per day (MGD). This facility is a potable water treatment plant (not a sewage treatment plant); therefore, the discharge from this facility is not considered to contribute bacteria and monitoring of the effluent is not required under the permit.

Therefore, DEQ proposes the following changes to the report:

- Remove the WLA for the Addison/Evans Water Production and Laboratory Facility (formerly Swift Creek Water Treatment Facility) (VPDES Permit #0006254). This will result in a change <1% of the TMDL in each of the three segments affected.

- Move former WLA for Addison/Evans facility (VA0006254) of 1.05E+10 to "Future Load" in each segment. Appomattox River segment 3 will change to a total future load of 5.58E+12, Swift Creek segment 2 will result in a future load of 1.05E+10, and Swift Creek segment 3 will result in a future load of 1.05E+10.

For the bacterial TMDL, the proposed WLA changes will neither cause nor contribute to the nonattainment of the Appomattox River basin (0% increase).

The public comment period for this modification will end January 25, 2011. Please include the name, address, and telephone number of the person submitting comments or questions and send to Margaret Smigo, Department of Environmental Quality, Piedmont Regional Office, 4969-A Cox Road, Glen Allen, VA 23060, telephone (804) 527-5124, or email [margaret.smigo@deq.virginia.gov](mailto:margaret.smigo@deq.virginia.gov).

### **Total Maximum Daily Loads for Schenks Branch, Meadow Creek, and Moore's Creek Watersheds**

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 total maximum daily loads (TMDLs) for the Schenks Branch, Meadow Creek, and Moore's Creek watersheds in the City of Charlottesville and Albemarle County. These streams were listed on the 2006 and 2008 303(d) TMDL Priority List and Report as impaired due to violations of the state's general water quality standard (benthic) for aquatic life. The benthic impairment on Schenks Branch extends 1.138 miles from the headwaters of its tributaries to the Meadow Creek confluence. Meadow Creek is benthically impaired from where it becomes a perennial stream to its confluence with the Rivanna River (4 miles). The benthic impairment on Moore's Creek extends 6.377 miles from its confluence with the Ragged Mountain Dam receiving stream downstream to its confluence with the Rivanna River and includes the tributary locally known as Rock Creek.

Section 303(d) of the federal Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in Virginia's 303(d) TMDL Priority List and Report.

The first public meeting on the development of these TMDLs will be held on Thursday, January 6, 2011, at 6 p.m. at Walker Upper Elementary School, 1564 Dairy Road, Charlottesville, VA 22903.

The public comment period for the first public meeting will end on February 7, 2011. 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 [tara.sieber@deq.virginia.gov](mailto:tara.sieber@deq.virginia.gov).

## **STATE LOTTERY DEPARTMENT**

### **Director's Orders**

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on November 29, 2010, and December 6, 2010. The order may be viewed at the State Lottery Department, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, VA.

#### Director's Order Number One Hundred (10)

Virginia's Instant Game Lottery 1217; "Super Bonus Crossword" Final Rules for Game Operation (effective November 29, 2010)

#### Director's Order Number One Hundred Ten (10)

Virginia Lottery's "University of Virginia Playbook JPJ Concert Sweepstakes" Final Rules for Game Operation (effective December 6, 2010)

## **STATE WATER CONTROL BOARD**

### **Proposed Consent Order for Louisa County Water Authority at the Louisa Regional Sewage Treatment Plant**

An enforcement action has been proposed for Louisa County Water Authority for alleged violations in Louisa County at the Louisa Regional Sewage Treatment Plant. The proposed consent order describes a settlement of violations of Virginia Pollutant Discharge Elimination System Permit No. VA0067954. A description of the proposed action is available at the DEQ office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Stephanie Bellotti will accept comments by email at [stephanie.bellotti@deq.virginia.gov](mailto:stephanie.bellotti@deq.virginia.gov), FAX (703) 583-3821, or postal mail to Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from December 21, 2010, through January 20, 2011.

### **Proposed Consent Order for Louisa County Water Authority at the Zion Crossroads Wastewater Treatment Plant**

An enforcement action has been proposed for Louisa County Water Authority for alleged violations in Louisa County at the Zion Crossroads Wastewater Treatment Plant. The proposed consent order describes a settlement of violations of Virginia Pollutant Discharge Elimination System Permit No. VA0090743. A description of the proposed action is available at the DEQ office named below or online at

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# General Notices/Errata

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www.deq.virginia.gov. Sarah Baker will accept comments by email at [sarah.baker@deq.virginia.gov](mailto:sarah.baker@deq.virginia.gov), FAX (703) 583-3821, or postal mail to Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from December 21, 2010, through January 20, 2011.

## VIRGINIA CODE COMMISSION

### Notice to State Agencies

**Contact Information:** *Mailing Address:* Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; FAX (804) 692-0625; *Email:* [varegs@dls.virginia.gov](mailto:varegs@dls.virginia.gov).

**Meeting Notices:** Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at <http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>.

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

**Filing Material for Publication in the Virginia Register of Regulations:** Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the *Virginia Register of Regulations*. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions, and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track, and emergency regulatory packages.

## ERRATA

### STATE CORPORATION COMMISSION

Title of Regulation: **10VAC5-160. Rules Governing Mortgage Lenders and Brokers (amending 10VAC5-160-10, 10VAC5-160-20, 10VAC5-160-40, 10VAC5-160-50; adding 10VAC5-160-90, 10VAC5-160-100).**

Publication: 27:7 VA.R. 683-687 December 6, 2010.

Correction to Proposed Regulation:

Page 685, subdivision 1 of 10VAC5-160-20, strike 6.1-2.9:5 and insert 6.2-604.

VA.R. Doc. No. R11-2653; Filed December 10, 2010