



# VIRGINIA

## REGISTER OF REGULATIONS

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Virginia Code Commission

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# 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 18 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. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

*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.

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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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### November 2014 through December 2015

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
31:6	October 29, 2014	November 17, 2014
31:7	November 12, 2014	December 1, 2014
31:8	November 25, 2014 ( <b>Tuesday</b> )	December 15, 2014
31:9	December 10, 2014	December 29, 2014
31:10	December 22, 2014 ( <b>Monday</b> )	January 12, 2015
31:11	January 7, 2015	January 26, 2015
31:12	January 21, 2015	February 9, 2015
31:13	February 4, 2015	February 23, 2015
31:14	February 18, 2015	March 9, 2015
31:15	March 4, 2015	March 23, 2015
31:16	March 18, 2015	April 6, 2015
31:17	April 1, 2015	April 20, 2015
31:18	April 15, 2015	May 4, 2015
31:19	April 29, 2015	May 18, 2015
31:20	May 13, 2015	June 1, 2015
31:21	May 27, 2015	June 15, 2015
31:22	June 10, 2015	June 29, 2015
31:23	June 24, 2015	July 13, 2015
31:24	July 8, 2015	July 27, 2015
31:25	July 22, 2015	August 10, 2015
31:26	August 5, 2015	August 24, 2015
32:1	August 19, 2015	September 7, 2015
32:2	September 2, 2015	September 21, 2015
32:3	September 16, 2015	October 5, 2015
32:4	September 30, 2015	October 19, 2015
32:5	October 14, 2015	November 2, 2015
32:6	October 28, 2015	November 16, 2015
32:7	November 11, 2015	November 30, 2015
32:8	November 24, 2015 ( <b>Tuesday</b> )	December 14, 2015

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

### BOARD OF MEDICINE

#### Agency Decision

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

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

Name of Petitioner: Michael Jurgensen for the Medical Society of Virginia.

Nature of Petitioner's Request:

Part VIII. Office-Based Anesthesia.

18VAC85-20-320. General provisions.

A. Applicability of requirements for office-based anesthesia.

1. The administration of topical anesthesia, local anesthesia, minor conductive blocks, or minimal sedation/anxiolysis, not involving a drug-induced alteration of consciousness other than minimal preoperative tranquilization, is not subject to the requirements for office-based anesthesia. A health care practitioner administering such agents shall adhere to an accepted standard of care as appropriate to the level of anesthesia or sedation, including evaluation, drug selection, administration and management of complications.

2. The administration of moderate sedation/conscious sedation, deep sedation, general anesthesia, or regional anesthesia consisting of a major conductive block are subject to these requirements for office-based anesthesia. The administration of 300 or more milligrams of lidocaine or equivalent doses of local anesthetics shall be deemed to be subject to these requirements for office-based anesthesia.

3. Levels of anesthesia or sedation referred to in this chapter shall relate to the level of anesthesia or sedation intended and documented by the practitioner in the pre-operative anesthesia plan.

B. A doctor of medicine, osteopathic medicine, or podiatry administering office-based anesthesia or supervising such administration shall:

1. Perform a preanesthetic evaluation and examination or ensure that it has been performed;

2. Develop the anesthesia plan or ensure that it has been developed;

3. Ensure that the anesthesia plan has been discussed with the patient or responsible party pre-operatively and informed consent obtained;

4. Ensure patient assessment and monitoring through the pre-, peri-, and post-procedure phases, addressing not only

physical and functional status, but also physiological and cognitive status;

5. Ensure provision of indicated post-anesthesia care; ~~and~~

6. Remain physically present or immediately available, as appropriate, to manage complications and emergencies until discharge criteria have been met, and

7. Document any complications occurring during surgery or during recovery in the medical record.

C. All written policies, procedures and protocols required for office-based anesthesia shall be maintained and available for inspection at the facility.

18VAC85-20-340. Procedure/anesthesia selection and patient evaluation.

A. A written protocol shall be developed and followed for procedure selection to include but not be limited to:

1. The doctor providing or supervising the anesthesia shall ensure that the procedure to be undertaken is within the scope of practice of the health care practitioners and the capabilities of the facility.

2. The procedure or combined procedures shall be of a duration and degree of complexity that shall not exceed eight hours and that will permit the patient to recover and be discharged from the facility in less than 24 hours.

3. The level of anesthesia used shall be appropriate for the patient, the surgical procedure, the clinical setting, the education and training of the personnel, and the equipment available. The choice of specific anesthesia agents and techniques shall focus on providing an anesthetic that will be effective, appropriate and will address the specific needs of patients while also ensuring rapid recovery to normal function with maximum efforts to control post-operative pain, nausea or other side effects.

B. A written protocol shall be developed for patient evaluation to include but not be limited to:

1. The preoperative anesthesia evaluation of a patient shall be performed by the health care practitioner administering the anesthesia or supervising the administration of anesthesia. It shall consist of performing an appropriate history and physical examination, determining the patient's physical status classification, developing a plan of anesthesia care, acquainting the patient or the responsible individual with the proposed plan and discussing the risks and benefits.

2. The condition of the patient, specific morbidities that complicate anesthetic management, the specific intrinsic risks involved, and the nature of the planned procedure shall be considered in evaluating a patient for office-based anesthesia.

3. Patients who have pre-existing medical or other conditions that may be of particular risk for complications shall be

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## Petitions for Rulemaking

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referred to a facility appropriate for the procedure and administration of anesthesia. Nothing relieves the licensed health care practitioner of the responsibility to make a medical determination of the appropriate surgical facility or setting.

C. Office-based anesthesia shall only be provided for patients in physical status classifications for Classes I, II and III. Patients in Classes IV and V shall not be provided anesthesia in an office-based setting.

18VAC85-20-350. Informed consent.

1. Prior to administration, the anesthesia plan shall be discussed with the patient or responsible party by the health care practitioner administering the anesthesia or supervising the administration of anesthesia. Informed consent for the nature and objectives of the anesthesia planned shall be in writing and obtained from the patient or responsible party before the procedure is performed. Such consent shall include a discussion of discharge planning and what care or assistance the patient is expected to require after discharge. Informed consent shall only be obtained after a discussion of the risks, benefits, and alternatives, contain the name of the anesthesia provider and be documented in the medical record.

2. The surgical consent forms shall be executed by the patient or the responsible party and shall contain a statement that the doctor performing the surgery is board certified or board eligible by one of the ABMS boards and list which board or contain a statement that the doctor performing the surgery is not board certified or board eligible.

3. The surgical consent forms shall indicate whether the surgery is elective, medically necessary, or if a consent is obtained in an emergency, the nature of the emergency.

18VAC85-20-370. Emergency and transfer protocols.

A. There shall be written protocols for handling emergency situations, including medical emergencies and internal and external disasters. All personnel shall be appropriately trained in and regularly review the protocols and the equipment and procedures for handling emergencies.

B. There shall be written protocols for the timely and safe transfer of patients to a prespecified hospital or hospitals within a reasonable proximity. For purposes of this section "reasonable proximity" shall mean a licensed general hospital capable of providing necessary services within 30 minutes notice to the hospital. There shall be a written or electronic transfer agreement with such hospital or hospitals.

18VAC85-20-380. Discharge policies and procedures.

A. There shall be written policies and procedures outlining discharge criteria. Such criteria shall include stable vital signs, responsiveness and orientation, ability to move voluntarily, controlled pain, and minimal nausea and vomiting.

B. Discharge from anesthesia care is the responsibility of the health care practitioner providing or the doctor supervising the anesthesia care and shall only occur when: (i) patients have met specific physician-defined criteria; and (ii) ordered by the health care practitioner providing or the doctor supervising the anesthetic care.

C. Written instructions and an emergency phone number shall be provided to the patient. Patients shall be discharged with a responsible individual who has been instructed with regard to the patient's care.

D. At least one person trained in advanced resuscitative techniques shall be immediately available until all patients are discharged.

Agency Decision: Request granted.

Statement of Reason for Decision: The intent of the board is to address the need for additional public protection in the administration of office-based anesthesia. Specific amendments recommended by the petitioner will be considered, as well as comments received on the petition and on the NOIRA.

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

VA.R. Doc. No. R15-01; Filed October 21, 2014, 8:37 a.m.

### BOARD OF NURSING

#### Agency Decision

Title of Regulation: **18VAC90-20. Regulations Governing the Practice of Nursing.**

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

Name of Petitioner: Patrick Sorensen.

Nature of Petitioner's Request: To accept paramedic hours of clinical experience towards the requirement of 500-hour requirement for licensure as a registered nurse, similar to the 150 hours of credit allowed for persons licensed as practical nurses.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Nursing considered the request at its meeting on September 16, 2104, and after much discussion, declined to initiate rulemaking. While the board recognizes the excellent contributions of paramedics in emergency medical services, it does not feel that the training and experience provides a broad range of patient care in a variety of settings. Additionally, the educational curriculum of a licensed practical nurse includes rotations across the spectrum of the life cycle with various populations, so it would be difficult to equate the clinical experience.

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

VA.R. Doc. No. R14-37; Filed October 27, 2014, 1:28 p.m.

### **BOARD OF VETERINARY MEDICINE**

#### **Agency Decision**

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

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

Name of Petitioner: Alysoun Ann Mahoney.

Nature of Petitioner's Request: To amend 18VAC150-20-121, Requirements for licensure by endorsement for veterinary technicians, to require completion of training in animal behavior through a certified applied animal behaviorist.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on October 22, 2014, the board considered all comments in favor of and in opposition to the request for amendment. Its conclusion was that the veterinary technician programs have adequate training in animal behavior, and the additional requirement for a formal training through a certified applied animal behaviorist would be burdensome. The board does not specify certain training or subject matter for licensure; it does require that educational programs be accredited. While the topic of animal behavior is certainly important to the practice of veterinary technicians, the board does not believe it is primary above all other subject matter and therefore necessary to be singled out as a requirement. Therefore, the board has denied the petition and will not initiate rulemaking.

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

VA.R. Doc. No. R14-29; Filed October 23, 2014, 4:24 p.m.

#### **Agency Decision**

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

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

Name of Petitioner: Lee Henkel.

Nature of Petitioner's Request: The petitioner requests (i) an amendment to 18VAC150-20-10 to further define supervision as "direct," "immediate," or "indirect" for greater clarity to the public about the involvement of the supervising veterinarian; (ii) an amendment to 18VAC150-20-130 to require owner notification and consent for practice on an animal by a student, extern, preceptee, intern, or resident; and

(iii) an amendment to 18VAC150-20-140 on unprofessional conduct to reflect changes in the supervision definition.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on October 22, 2014, the board considered all comments in favor of and in opposition to the request for amendments. Its conclusion was that additional study of issues relating to owner consent and notification and the levels of supervision was necessary before deciding whether regulations of the Board of Veterinary Medicine should be amended. Therefore, the board has denied the petition and will not initiate rulemaking at this time. The subject matter was referred to the Regulatory/Legislative Committee for further review and discussion.

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

VA.R. Doc. No. R14-41; Filed October 23, 2014, 4:25 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 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

#### Emergency Regulation

Title of Regulation: **4VAC20-720. Pertaining to Restrictions on Oyster Harvest (amending 4VAC20-720-10, 4VAC20-720-20).**

Statutory Authority: §§ 28.2-201 and 28.2-210 of the Code of Virginia.

Effective Dates: October 30, 2014, through November 29, 2014.

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.

Preamble:

*This emergency action amends the definition of the Rappahannock River Rotation Area 1 to align coordinates to a currently established buoy location.*

#### **4VAC20-720-10. Purpose.**

The purpose of this emergency chapter is to conserve Virginia's oyster resources, especially oyster broodstock.

#### **4VAC20-720-20. Definitions.**

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

"Aid to navigation" means any public or private day beacon, lighted channel marker, channel buoy, lighted channel buoy, or lighthouse that may be at, or adjacent to, any latitude and longitude used in area descriptions.

"Clean culled oyster" means any oyster taken from natural public beds, rocks, or shoals that is three inches or greater in shell length.

"Coan River Area" means that area of the Coan River inside of Public Grounds 77 and 78 of Northumberland County.

Public Ground 77 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 2,300 feet northeast of Honest Point and 1,300 feet southwest of Travis Point, said point being Corner 1, located at Latitude 37° 59.5257207' N., Longitude 76° 27.8810639' W.; thence southwesterly to Corner 2, Latitude 37° 59.3710259' N., Longitude 76°

27.9962148' W.; thence southwesterly to Corner 3, Latitude 37° 59.2953830' N., Longitude 76° 28.0468953' W.; thence northwesterly to Corner 4, Latitude 37° 59.3350863' N., Longitude 76° 28.0968837' W.; thence northeasterly to Corner 5, Latitude 37° 59.3965161' N., Longitude 76° 28.0287342' W.; thence northwesterly to Corner 6, Latitude 37° 59.4758507' N., Longitude 76° 28.1112280' W.; thence north-northwesterly to Corner 7, Latitude 37° 59.5079401' N., Longitude 76° 28.1230058' W.; thence northeasterly to Corner 8, Latitude 37° 59.5579153' N., Longitude 76° 27.9889429' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

Public Ground 78 of Northumberland County is located near the mouth of the Coan River, beginning at a point approximately 3,420 feet southeast of Travis Point and 3,260 feet northwest of Great Point, said point being Corner 1, located at Latitude 37° 59.4822275' N., Longitude 76° 27.1878637' W.; thence southeasterly to Corner 2, Latitude 37° 59.3824046' N., Longitude 76° 27.1088650' W.; thence southwesterly to Corner 3, Latitude 37° 59.2283287' N., Longitude 76° 27.8632901' W.; thence northeasterly to Corner 4, Latitude 37° 59.4368502' N., Longitude 76° 27.6868001' W.; thence continuing northeasterly to Corner 5, Latitude 37° 59.5949216' N., Longitude 76° 27.5399436' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Deep Rock Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay near Gwynn Island, beginning at Cherry Point at the western-most point of the eastern headland of Kibble Pond located at Latitude 37° 30.9802148' N., Longitude 76° 17.6764393' W.; thence northeasterly to the Piankatank River, Flashing Green Channel Light "3", Latitude 37° 32.3671325' N., Longitude 76° 16.7038334' W.; thence east-southeasterly to the Rappahannock River Entrance Lighted Buoy G"1R", Latitude 37° 32.2712833' N., Longitude 76° 11.4813666' W.; thence southwesterly to the southern-most point of Sandy Point, the northern headland of "The Hole in the Wall", Latitude 37° 28.1475258' N., Longitude 76° 15.8185670' W.; thence northwesterly along the Chesapeake Bay mean low water line of the barrier islands of Milford Haven, connecting headland to headland at their eastern-most points, and of Gwynn Island to the western-most point of the eastern headland of Kibble Pond on Cherry Point, said point being the point of beginning.

"Deep Water Shoal State Replenishment Seed Area" or "DWS" means that area in the James River near Mulberry

Island, beginning at a point approximately 530 feet west of Deep Water Shoal Light, said point being Corner 1, located at Latitude 37° 08.9433287' N., Longitude 76° 38.3213007' W.; thence southeasterly to Corner 2, Latitude 37° 09.5734380' N., Longitude 76° 37.8300582' W.; thence southwesterly to Corner 3, Latitude 37° 08.9265524' N., Longitude 76° 37.0574269' W.; thence westerly to Corner 4, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence northwesterly to Corner 5, Latitude 37° 08.4491489' N., Longitude 76° 38.0215553' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Great Wicomico River Area" means all public grounds and unassigned grounds, in that area of the Great Wicomico River, Ingram Bay, and the Chesapeake Bay, beginning at a point on Sandy Point, Latitude 37° 49.3269652' N., Longitude 76° 18.3821766' W.; thence easterly to the southern-most point of Cockrell Point, Latitude 37° 49.2664838' N., Longitude 76° 17.3454434' W.; thence easterly following the mean low water line of Cockrell Point to a point on the boundary of Public Ground 115 at Cash Point, Latitude 37° 49.2695619' N., Longitude 76° 17.2804046' W.; thence southeasterly to the gazebo on the pierhead at Fleets Point, Latitude 37° 48.7855824' N., Longitude 76° 16.9609311' W.; thence southeasterly to the Great Wicomico Lighthouse; thence due south to a point due east of the southern-most point of Dameron Marsh, Latitude 37° 46.6610003' N., Longitude 76° 16.0570007' W.; thence due east to the southern-most point of Dameron Marsh, Latitude 37° 46.6609070' N., Longitude 76° 17.2670707' W.; thence along the mean low water line of Dameron Marsh, north and west to Garden Point, Latitude 37° 47.2519872' N., Longitude 76° 18.4028142' W.; thence northwesterly to Windmill Point, Latitude 37° 47.5194547' N., Longitude 76° 18.7132194' W.; thence northerly along the mean low water to the western headland of Harveys Creek, Latitude 37° 47.7923573' N., Longitude 76° 18.6881450' W.; thence east-southeasterly to the eastern headland of Harveys Creek, Latitude 37° 47.7826936' N., Longitude 76° 18.5469879' W.; thence northerly along the mean low water line, crossing the entrance to Towels Creek at the offshore ends of the jetties and continuing to Bussel Point, Latitude 37° 48.6879208' N., Longitude 76° 18.4670860' W.; thence northwesterly to the northern headland of Cranes Creek, Latitude 37° 48.8329168' N., Longitude 76° 18.7308073' W.; thence following the mean low water line northerly to a point on Sandy Point, said point being the point of beginning.

"Hand scrape" means any device or instrument with a catching bar having an inside measurement of no more than 22 inches, which is used or usable for the purpose of extracting or removing shellfish from a water bottom or the bed of a body of water.

"Hand tong" or "ordinary tong" means any pincers, nippers, tongs, or similar device used in catching oysters, which consist of two shafts or handles attached to opposable and complementary pincers, baskets, or containers operated

entirely by hand, from the surface of the water and has no external or internal power source.

"James River Area" means those public grounds of the James River and Nansemond River west of the Monitor Merrimac Memorial Bridge Tunnel (Route I-664), northeast of the Mills E. Godwin, Jr. Bridge (U.S. Route 17) on the Nansemond River, and south of the James River Bridge (U.S. Route 17).

"James River Seed Area" means all public grounds and unassigned grounds in that area of the James River and its tributaries with a southeastern boundary beginning at a point on the shore on the south side of the river at Rainbow Farm Point in Isle of Wight County located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH", Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT", at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3449949' N., Longitude 76° 32.7689936' W.; thence northeasterly to a VMRC Marker "NMT", Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, in the City of Newport News, located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.; the northern boundary, being a straight line, beginning at a point on the shore on the east side of the river in the City of Newport News, at Latitude 37° 08.4458787' N., Longitude 76° 37.2855533' W.; thence westerly to the southeast corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4466039' N., Longitude 76° 37.4523346' W.; thence westerly to the southwest corner of the Deep Water Shoal State Replenishment Seed Area, Latitude 37° 08.4490472' N., Longitude 76° 38.0215554' W.; thence westerly to a point on the shore on the west side of the river at the mouth of Lawnes Creek in Isle of Wight County, Latitude 37° 08.4582990' N., Longitude 76° 40.2816023' W.

"Latitude and longitude" means values that are based upon a geodetic reference system of the North American Datum of 1983 (NAD83). When latitude and longitude are used in any area description, in conjunction with any physical landmark, to include aids to navigation, the latitude and longitude value is the legal point defining the boundary.

"Little Wicomico River" means that area of the Little Wicomico River inside of Public Ground 43 of Northumberland County, located in the Little Wicomico River near Bridge Creek, beginning at a point approximately 150 feet north of Peachtree Point, said point being Corner 1, located at Latitude 37° 53.2910650' N., Longitude 76° 16.7312926' W.; thence southwesterly to Corner 2, Latitude 37° 53.2601877' N., Longitude 76° 16.8662408' W.; thence northwesterly to Corner 3, Latitude 37° 53.2678470' N., Longitude 76° 16.8902408' W.; thence northeasterly to Corner



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4, Latitude 37° 53.3113148' N., Longitude 76° 16.8211543' W.; thence southeasterly to Corner 1, said corner being the point of beginning.

"Milford Haven" means that area of Milford Haven inside of Public Ground 7 of Mathews County, beginning at a point approximately 1,380 feet east of Point Breeze, said point being Corner 1, located at Latitude 37° 28.3500000' N., Longitude 76° 16.5000000' W.; thence northeasterly to Corner 2, Latitude 37° 28.3700000' N., Longitude 76° 16.4700000' W.; thence southeasterly to Corner 3, Latitude 37° 28.3500000' N., Longitude 76° 16.4200000' W.; thence southwesterly to Corner 4, Latitude 37° 28.3200000' N., Longitude 76° 16.4500000' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

"Mobjack Bay Area" means those areas of Mobjack Bay consisting of Public Ground 25 of Gloucester County (Tow Stake) and that portion of Public Ground 2 of Mathews County known as Pultz Bar described as:

Public Ground 25 of Gloucester County, known as Tow Stake, is located in Mobjack Bay, near the mouth of the Severn River, beginning at a point approximately 2,880 feet east-northeast of Tow Stake Point, said point being Corner 1, located at Latitude 37° 20.3883888' N., Longitude 76° 23.5883836' W.; thence northeasterly to Corner 2, Latitude 37° 30.5910482' N., Longitude 76° 23.2372184' W.; thence southeasterly to Corner 3, Latitude 37° 20.3786971' N., Longitude 76° 22.7241180' W.; thence southwesterly to Corner 4, Latitude 37° 19.8616759' N., Longitude 76° 23.5914937' W.; thence northwesterly to Corner 5, Latitude 37° 20.0284019' N., Longitude 76° 23.7717423' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

Public Ground 2 of Mathews County, known as Pultz Bar, is located in Mobjack Bay, beginning at a point approximately 5,420 feet south of Minter Point, said point being Corner 1, located at Latitude 37° 21.2500000' N., Longitude 76° 21.3700000' W.; thence easterly to Corner 2, Latitude 37° 21.2700000' N., Longitude 76° 20.9600000' W.; thence southerly to Corner 3, Latitude 37° 21.0200000' N., Longitude 76° 20.9400000' W.; thence westerly to Corner 4, Latitude 37° 21.0500000' N., Longitude 76° 21.3300000' W.; thence northerly to Corner 1, said corner being the point of beginning.

"Nomini Creek Area" means that area of Nomini Creek inside of Public Grounds 26 and 28 of Westmoreland County.

Public Ground 26 of Westmoreland County is located in Nomini Creek, north of Beales Wharf and east of Barnes Point, beginning at a point approximately 1,400 feet north of Barnes Point, said point being Corner 1, located at Latitude 38° 07.2690219' N., Longitude 76° 42.6784210' W.; thence southeasterly to Corner 2, Latitude 38° 07.0924060' N., Longitude 76° 42.4745767' W.; thence southwesterly to Corner 3, Latitude 38° 06.8394053' N., Longitude 76° 42.6704025' W.; thence northwesterly to

Corner 4, Latitude 38° 06.8743004' N., Longitude 76° 42.7552151' W.; thence northeasterly to Corner 5, Latitude 38° 07.0569717' N., Longitude 76° 42.5603535' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 28 of Westmoreland County is located at the mouth of Nomini Creek, beginning at a point approximately 50 feet west of White Oak Point, said point being Corner 1, located at Latitude 38° 07.6429987' N., Longitude 76° 43.0337082' W.; thence south-southeasterly to Corner 2, Latitude 38° 07.2987193' N., Longitude 76° 43.1101420' W.; thence northwesterly to Corner 3, Latitude 38° 07.7029267' N., Longitude 76° 43.3337762' W.; thence west to the mean low water line, Latitude 38° 07.7031535' N., Longitude 76° 43.3378345' W.; thence northerly and westerly along the mean low water line of Nomini Creek to a point southwest of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence northeasterly to a point on the mean low water line at the southern-most point of Cedar Island, Latitude 38° 07.8986449' N., Longitude 76° 43.6329097' W.; thence following the mean low water line of the southern and eastern sides of Cedar Island to a point, Latitude 38° 08.0164430' N., Longitude 76° 43.4773169' W.; thence northeasterly to Corner 4, Latitude 38° 08.0712849' N., Longitude 76° 43.4416606' W.; thence northeasterly to a point on the northern headland of Nomini Creek at the mean low water line, said point being Corner 5, Latitude 38° 08.2729626' N., Longitude 76° 43.3105315' W.; thence following the mean low water line of White Point to a point northwest of Snake Island, Corner 6, Latitude 38° 08.4066960' N., Longitude 76° 42.9105565' W.; thence southeast, crossing the mouth of Buckner Creek, to a point on the mean low water line of Snake Island, Corner 7, Latitude 38° 08.3698254' N., Longitude 76° 42.8939656' W.; thence southeasterly following the mean low water line of Snake Island to Corner 8, Latitude 38° 08.2333798' N., Longitude 76° 42.7778877' W.; thence south-southwesterly, crossing the mouth of Buckner Creek, to Corner 9, Latitude 38° 08.2134371' N., Longitude 76° 42.7886409' W.; thence southeasterly to a point on the mean low water line of the southern headland of Buckner Creek, Corner 10, Latitude 38° 08.1956281' N., Longitude 76° 42.7679625' W.; thence southwesterly following the mean low water line of Nomini Creek, crossing the mouth of an un-named cove at the narrowest point between the headlands and continuing to follow the mean low water line to a point on White Oak Point, Latitude 38° 07.6428228' N., Longitude 76° 43.0233530' W.; thence west to Corner 1, said point being the point of beginning.

"Oyster" means any shellfish of the species *Crassostrea virginica*.

"Oyster dredge" means any device having a maximum weight of 150 pounds with attachments, maximum width of 50 inches, and maximum tooth length of four inches.

"Oyster patent tong" means any patent tong not exceeding 100 pounds in gross weight, including any attachment other than rope and with the teeth not to exceed four inches in length.

"Oyster resource user fee" means a fee that must be paid each calendar year by anyone who grows, harvests, shucks, packs, or ships oysters for commercial purposes.

"Pocomoke Sound Area" means that area of Pocomoke Sound inside of Public Grounds 9 and 10 of Accomack County.

Public Ground 9 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 1.06 nautical miles north-northeast of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 57.2711566' N., Longitude 75° 42.2870790' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 57.2896577' N., Longitude 75° 41.9790727' W.; thence southerly to Corner 3, Latitude 37° 57.2574850' N., Longitude 75° 41.9790730' W.; thence southwesterly to Corner 4, Latitude 37° 57.2288700' N., Longitude 75° 42.0077287' W.; thence west-southwesterly to Corner 5, Latitude 37° 57.2034533' N., Longitude 75° 42.1511250' W.; thence south-southwesterly to Corner 6, Latitude 37° 57.0940590' N., Longitude 75° 42.1935214' W.; thence south-southeasterly to Corner 7, Latitude 37° 57.0551726' N., Longitude 75° 42.1814457' W.; thence southwesterly to Corner 8, Latitude 37° 56.9408327' N., Longitude 75° 42.2957912' W.; thence south-southwesterly to Corner 9, Latitude 37° 56.6574947' N., Longitude 75° 42.3790819' W.; thence southwesterly to Corner 10, Latitude 37° 56.5790952' N., Longitude 75° 42.5228752' W.; thence west-southwesterly to Corner 11, Latitude 37° 56.5712564' N., Longitude 75° 42.5915437' W.; thence south-southeasterly to Corner 12, Latitude 37° 56.5441067' N., Longitude 75° 42.5869894' W.; thence southwesterly to Corner 13, Latitude 37° 56.4575045' N., Longitude 75° 42.7458050' W.; thence west-southwesterly to Corner 14, Latitude 37° 56.2575123' N., Longitude 75° 43.3791097' W.; thence southwesterly to Corner 15, Latitude 37° 55.7408688' N., Longitude 75° 43.7957804' W.; thence westerly to Corner 16, Latitude 37° 55.7575327' N., Longitude 75° 43.9458298' W.; thence northwesterly to Corner 17, Latitude 37° 55.8908661' N., Longitude 75° 44.1291309' W.; thence north-northeasterly to Corner 18, Latitude 37° 55.9908639' N., Longitude 75° 44.0791266' W.; thence northeasterly to Corner 19, Latitude 37° 56.1241858' N., Longitude 75° 43.8791328' W.; thence north-northeasterly to Corner 20, Latitude 37° 56.4075136' N., Longitude 75° 43.7291361' W.; thence northeasterly to Corner 21, Latitude 37° 56.8241664' N., Longitude 75° 43.2624601' W.; thence north-northeasterly to Corner 22, Latitude 37° 57.0706006' N., Longitude 75° 43.1480402' W.; thence east-northeasterly along the Maryland-Virginia

state line to Corner 1, said corner being the point of beginning.

Public Ground 10 of Accomack County is located in the Pocomoke Sound, beginning at a corner on the Maryland-Virginia state line, located in the Pocomoke Sound approximately 2.3 nautical miles westerly of the northern-most point of North End Point, said point being Corner 1, located at Latitude 37° 56.4741881' N., Longitude 75° 45.7051676' W. (NAD83); thence east-northeasterly along the Maryland-Virginia state line to Corner 2, Latitude 37° 56.9261140' N., Longitude 75° 43.7679786' W.; thence south-southwesterly to Corner 3, Latitude 37° 56.1241948' N., Longitude 75° 44.3624962' W.; thence west-southwesterly to Corner 4, Latitude 37° 56.0820561' N., Longitude 75° 44.5826292' W.; thence northerly to Corner 5, Latitude 37° 56.1377309' N., Longitude 75° 44.5817745' W.; thence west-southwesterly to Corner 6, Latitude 37° 56.1259751' N., Longitude 75° 44.6226859' W.; thence southwesterly to Corner 7, Latitude 37° 56.1039335' N., Longitude 75° 44.6692334' W.; thence southerly to Corner 8, Latitude 37° 56.0643616' N., Longitude 75° 44.6750106' W.; thence west-southwesterly to Corner 9, Latitude 37° 55.9742005' N., Longitude 75° 45.1458109' W.; thence west-northwesterly to Corner 10, Latitude 37° 56.0741973' N., Longitude 75° 45.8958329' W.; thence north-northwesterly to Corner 11, Latitude 37° 56.2565760' N., Longitude 75° 46.0000557' W.; thence northeasterly along the Maryland-Virginia state line to Corner 1, said corner being the point of beginning.

"Pocomoke and Tangier Sounds Management Area" or "PTSMA" means the area as defined in § 28.2-524 of the Code of Virginia.

"Pocomoke and Tangier Sounds Rotation Area 1" means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at a point on the Maryland-Virginia state line, located at Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence south to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence westerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence south to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence easterly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence northerly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southeasterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence southeasterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence southeast to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence southerly to a point on a line from Guilford Flats Junction Light to the northern-most point of

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Russell Island, where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence clockwise following the PTSMA boundary to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Pocomoke and Tangier Sounds Rotation Area 2" means all public grounds and unassigned grounds, within an area of the PTSMA, in Pocomoke and Tangier Sounds, bounded by a line beginning at the house on Great Fox Island, located at Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence southerly to the north end of Watts Island, Latitude 37° 48.7757800' N., Longitude 75° 53.5994100' W.; thence westerly to a point, Latitude 37° 48.4429100' N., Longitude 75° 56.4883600' W.; thence northerly to a point, Latitude 37° 53.3633500' N., Longitude 75° 56.5589600' W.; thence easterly to the house on Great Fox Island, said house being the point of beginning. Also, Pocomoke and Tangier Sounds Rotation Area 2 shall include all public grounds and unassigned grounds in the PTSMA in Pocomoke Sound bounded by a line beginning at a point on the Maryland-Virginia state line, Latitude 37° 54.6136000' N., Longitude 75° 53.9739600' W.; thence following the PTSMA boundary clockwise to a point on the line from the northern-most point of Russell Island to Guilford Flats Junction Light Flashing 2+1 Red "GF", where said line intersects the PTSMA boundary, Latitude 37° 48.4715943' N., Longitude 75° 46.9955932' W.; thence northerly to Guilford Flats Junction Light Flashing 2+1 Red "GF", Latitude 37° 50.9533300' N., Longitude 75° 46.6416700' W.; thence northwesterly to Messongo Creek Entrance Buoy Green Can "1", Latitude 37° 52.1000000' N., Longitude 75° 47.8083300' W.; thence northwesterly to Pocomoke Sound Shoal Flashing Light Red "8", Latitude 37° 52.4583300' N., Longitude 75° 49.4000000' W.; thence northwesterly to the house on Great Fox Island, Latitude 37° 53.6946500' N., Longitude 75° 53.8898800' W.; thence northerly to a point on the Maryland-Virginia state line, said point being the point of beginning.

"Public oyster ground" means all those grounds defined in § 28.2-551 of the Code of Virginia or by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources Commission, and may be redefined by any of these legal authorities.

"Rappahannock River Area 7" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Rogue Point, located at Latitude 37° 40.0400000' N., Longitude 76° 32.2530000' W.; thence west-northwesterly to Flashing Red Buoy "8", Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwest to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.; and bounded upstream by a line from Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; thence southeasterly to Monaskon Point, Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.

"Rappahannock River Area 8" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Monaskon Point, located at Latitude 37° 44.0630000' N., Longitude 76° 34.1080000' W.; thence northwesterly to Punchbowl Point, Latitude 37° 44.6750000' N., Longitude 76° 37.3250000' W.; and bounded upstream by a line from Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; thence north-northwesterly to Sharps Point, Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.

"Rappahannock River Area 9" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from Sharps Point, located at Latitude 37° 49.3640000' N., Longitude 76° 42.0870000' W.; thence south-southeasterly to Jones Point, Latitude 37° 46.7860000' N., Longitude 76° 40.8350000' W.; and bounded upstream by the Thomas J. Downing Bridge (U.S. Route 360).

"Rappahannock River Rotation Area 1" means all public grounds, in that area of the Rappahannock River and Chesapeake Bay, bounded by a line offshore and across the mouth of the Rappahannock River from a point on the mean low water line of Windmill Point, located at Latitude 37° 36.8200000' N., Longitude 76° 16.9460000' W.; thence southeast to Windmill Point Light, Latitude 37° 35.7930000' N., Longitude 76° 14.1800000' W.; thence southwest to Stingray Point Light, Latitude 37° 33.6730000' N., Longitude 76° 16.3620000' W.; thence westerly to a point on the mean low water line of Stingray Point, Latitude 37° 33.6920000' N., Longitude 76° 17.9860000' W.; and bounded upstream by a line from the mean low water line west of Broad Creek, Latitude 37° 33.9520000' N., Longitude 76° 19.3090000' W.; thence northeasterly to a VMRC Buoy on the Baylor line, Latitude 37° ~~34.5390000'~~ 34.5310000' N., Longitude 76° ~~49.0220000'~~ 19.1430000' W.; thence northeasterly to a VMRC Buoy, Latitude 37° 34.6830000' N., Longitude 76° 19.1000000' W.; thence northwesterly to a VMRC Buoy, Latitude 37° 35.0170000' N., Longitude 76° 19.4500000' W.; thence northwesterly to Sturgeon Bar Light "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence continuing northwesterly to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence northwesterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 2" means all public grounds, in that area of the Rappahannock River, bounded downstream by a line from the southern-most corner of the house on Mosquito Point, located at Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southeast to Mosquito Point Light "8R", Latitude 37° 36.1000000' N., Longitude 76° 21.3000000' W.; thence continuing southeasterly to Sturgeon Bar Beacon "7R", Latitude 37° 35.1500000' N., Longitude 76° 19.7330000' W.; thence west-southwesterly to a VMRC Buoy, Latitude 37° 34.9330000' N., Longitude 76° 21.0500000' W.; thence southwest to a

VMRC Buoy, Latitude 37° 34.8830000' N., Longitude 76° 21.1000000' W.; thence southwesterly to a pier west of Hunting Creek at Grinels, Latitude 37° 34.4360000' N., Longitude 76° 26.2880000' W.; and bounded on the upstream by a line from Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 26.9500000' W.; thence northeasterly to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence northeasterly to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.

"Rappahannock River Rotation Area 3" means all public grounds, in that area of the Rappahannock River, beginning from the north channel fender at the Robert O. Norris, Jr. Bridge, located at Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence southeast to the southern-most corner of the house on Mosquito Point, Latitude 37° 36.5230000' N., Longitude 76° 21.5950000' W.; thence southwest to Mill Creek Channel Marker "2", Latitude 37° 35.4830000' N., Longitude 76° 24.5670000' W.; thence southwesterly to Mill Creek Channel Marker "4", Latitude 37° 35.0830000' N., Longitude 76° 24.9500000' W.; thence northeasterly to Parrotts Creek Channel Marker "1", Latitude 37° 36.0330000' N., Longitude 76° 25.4170000' W.; thence northerly to VMRC Buoy, Latitude 37° 36.3330000' N., Longitude 76° 25.2000000' W.; thence northerly to the north channel fender of the Robert O. Norris, Jr. Bridge, said point being the point of beginning.

"Rappahannock River Rotation Area 4" means all public grounds, in that area of the Rappahannock River, Corrotoman River and Carter Creek, beginning at the White Stone end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 38.1290000' N., Longitude 76° 24.7220000' W.; thence along said bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence westerly to the VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence northerly to Old House Point, Latitude 37° 39.1390000' N., Longitude 76° 29.6850000' W.; thence northeasterly to Ball Point, Latitude 37° 41.6600000' N., Longitude 76° 28.6320000' W.; thence southeasterly to VMRC reef marker "Ferry Bar – North", Latitude 37° 40.3000000' N., Longitude 76° 28.5000000' W.; thence southwesterly to VMRC reef marker "Ferry Bar – South", Latitude 37° 40.1670000' N., Longitude 76° 28.5830000' W.; thence southeasterly to a duck blind west of Corrotoman Point, Latitude 37° 39.8760000' N., Longitude 76° 28.4200000' W.; thence southerly to VMRC Buoy "543", Latitude 37° 39.2670000' N., Longitude 76° 27.8500000' W.; thence southerly to VMRC Buoy "Drumming-West", Latitude 37° 38.8830000' N., Longitude 76° 27.6830000' W.; thence southerly to VMRC Buoy "Drumming-East", Latitude 37° 38.8330000' N., Longitude 76° 27.5670000' W.; thence northeasterly to Orchard Point, Latitude 37° 38.9240000' N., Longitude 76° 27.1260000' W.

"Rappahannock River Rotation Area 5" means all public grounds, in that area of the Rappahannock River, beginning at the Greys Point end of the Robert O. Norris, Jr. Bridge (State Route 3), located at Latitude 37° 36.8330000' N., Longitude 76° 25.9990000' W.; thence northeasterly along the bridge to the north channel fender, Latitude 37° 37.4830000' N., Longitude 76° 25.3450000' W.; thence west-northwesterly to VMRC Buoy "5-4", Latitude 37° 38.0050000' N., Longitude 76° 30.0280000' W.; thence westerly to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence south to the eastern headland of Whiting Creek, Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.

"Rappahannock River Rotation Area 6" means all public grounds, in that area of the Rappahannock River, beginning on the eastern headland of Whiting Creek, located at Latitude 37° 36.6580000' N., Longitude 76° 30.3120000' W.; thence north to Buoy "R6", Latitude 37° 38.0330000' N., Longitude 76° 30.2830000' W.; thence northwesterly to VMRC White House Sanctuary Buoy, Latitude 37° 38.1500000' N., Longitude 76° 30.5330000' W.; thence northwesterly to VMRC Towles Point Area Buoy, Latitude 37° 38.8330000' N., Longitude 76° 31.5360000' W.; thence northwesterly to Flashing Red Buoy "8" off Rogue Point, Latitude 37° 40.1580000' N., Longitude 76° 32.9390000' W.; thence southwesterly to Balls Point, Latitude 37° 39.3550000' N., Longitude 76° 34.4440000' W.

"Seed oyster" means any oyster taken by any person from natural beds, rocks, or shoals that is more than 30 days from harvest for human consumption.

"Thomas Rock Area" means all public grounds and unassigned grounds, in that area of the James River, with an eastern boundary being the upstream side of the James River Bridge (U.S. Route 17), and a western boundary being a line drawn from the south side of the river at Rainbow Farm Point, a point on the shore, in line with VMRC Markers "STH" and "SMT", located at Latitude 37° 00.1965862' N., Longitude 76° 34.0712010' W.; thence north-northeasterly to a VMRC Marker "STH", Latitude 37° 00.9815328' N., Longitude 76° 33.5955842' W.; thence to a VMRC Marker "SMT", at Latitude 37° 01.3228160' N., Longitude 76° 33.3887351' W.; thence to the Flashing Green Channel Light #5, at Latitude 37° 02.3449949' N., Longitude 76° 32.7689936' W.; thence northeasterly to a VMRC Marker "NMT", Latitude 37° 02.7740540' N., Longitude 76° 32.0960864' W.; thence to a VMRC Marker "NTH" located at Latitude 37° 03.2030055' N., Longitude 76° 31.4231211' W.; thence to a point on the north shore of the river at Blunt (Blount) Point, said point being in line with VMRC Markers "NMT" and "NTH" and located at Latitude 37° 03.3805862' N., Longitude 76° 31.1444562' W.

"Unassigned ground" means all those grounds defined by any other acts of the General Assembly pertaining to those grounds, all those grounds set aside by court order, and all those grounds set aside by order of the Marine Resources

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# Regulations

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Commission, and may be redefined by any of these legal authorities.

"Upper Chesapeake Bay - Blackberry Hangs Area" means all public grounds and unassigned grounds, in that area of the Chesapeake Bay, bounded by a line, beginning at a point approximately 300 feet east of the mean low water line of the Chesapeake Bay and approximately 1,230 feet southwest of the end of the southern-most stone jetty at the mouth of the Little Wicomico River, said point being Corner 1, Latitude 37° 53.1811193' N., Longitude 76° 14.1740146' W.; thence east-southeasterly to Corner 2, Latitude 37° 52.9050025' N., Longitude 76° 11.9357257' W.; thence easterly to Corner 3, Latitude 37° 52.9076552' N., Longitude 76° 11.6098145' W.; thence southwesterly to Corner 4, Latitude 37° 52.8684955' N., Longitude 76° 11.6402444' W.; thence east-southeasterly to Corner 5, Latitude 37° 52.7924853' N., Longitude 76° 11.0253352' W.; thence southwesterly to Corner 6, Latitude 37° 49.4327736' N., Longitude 76° 13.2409959' W.; thence northwesterly to Corner 7, Latitude 37° 50.0560555' N., Longitude 76° 15.0023234' W.; thence north-northeasterly to Corner 8, Latitude 37° 50.5581183' N., Longitude 76° 14.8772805' W.; thence north-northeasterly to Corner 9, Latitude 37° 52.0260950' N., Longitude 76° 14.5768550' W.; thence northeasterly to Corner 1, said corner being the point of beginning.

"Yeocomico River Area" means that area of the North West Yeocomico River, inside Public Ground 8 of Westmoreland County and those areas of the South Yeocomico River inside Public Grounds 102, 104, and 107 of Northumberland County.

Public Ground 8 of Westmoreland County is located in the North West Yeocomico River, beginning at a point approximately 1,455 feet northeast of Crow Bar and 1,850 feet northwest of White Point, said point being Corner 1, located at Latitude 38° 02.7468214' N., Longitude 76° 33.0775726' W.; thence southeasterly to Corner 2, Latitude 38° 02.7397202' N., Longitude 76° 33.0186286' W.; thence southerly to Corner 3, Latitude 38° 02.6021644' N., Longitude 76° 33.0234175' W.; thence westerly to Corner 4, Latitude 38° 02.6006669' N., Longitude 76° 33.0824799' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 102 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 630 feet south of Mundy Point and 1,745 feet southwest of Tom Jones Point, said point being Corner 1, located at Latitude 38° 01.2138059' N., Longitude 76° 32.5577201' W.; thence east-northeasterly to Corner 2, Latitude 38° 01.2268644' N., Longitude 76° 32.4497849' W.; thence southwesterly to Corner 3, Latitude 38° 01.1091209' N., Longitude 76° 32.5591101' W.; thence northerly to Corner 1, said corner being the point of beginning.

Public Ground 104 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 670 feet north of Walker Point and 1,900 feet northwest of Palmer Point, said point being Corner 1, located at Latitude 38° 00.8841841' N., Longitude 76° 32.6106215' W.; thence southeasterly to Corner 2, Latitude 38° 00.8609163' N., Longitude 76° 32.5296302' W.; thence southeasterly to Corner 3, Latitude 38° 00.6693092' N., Longitude 76° 32.4161866' W.; thence southwesterly to Corner 4, Latitude 38° 00.6418466' N., Longitude 76° 32.5394849' W.; thence northwesterly to Corner 1, said corner being the point of beginning.

Public Ground 107 of Northumberland County is located in the South Yeocomico River, beginning at a point approximately 1,000 feet southwest of Barn Point and 1,300 feet northwest of Tom Jones Point, said point being Corner 1, located at Longitude 38° 01.1389367' N., Latitude 76° 32.3425617' W.; thence east-southeasterly to Corner 2, Latitude 38° 01.4106421' N., Longitude 76° 32.1077962' W.; thence southwesterly to Corner 3, Latitude 38° 01.2717197' N., Longitude 76° 32.2917989' W.; thence north-northwesterly to Corner 1, said corner being the point of beginning.

"York River Rotation Area 1" means all public grounds in the York River, within Gloucester County, between a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.; upstream to a line from the Flashing Yellow VIMS Data Buoy "CB", Latitude 37° 20.4670000' N., Longitude 76° 37.4830000' W.; thence northeasterly to the inshore end of the wharf at Clay Bank.

"York River Rotation Area 2" means all public grounds in the York River, within Gloucester County, from the George P. Coleman Memorial Bridge (U.S. Route 17), upstream to a line from Upper York River Flashing Red Channel Marker "8", Latitude 37° 17.8863666' N., Longitude 76° 34.6534166' W.; thence northeasterly to Red Day Marker "2" at the mouth of Cedar Bush Creek, Latitude 37° 18.6422166' N., Longitude 76° 33.8216000' W.

VA.R. Doc. No. R15-4204; Filed October 30, 2014, 11:15 a.m.

## Final Regulation

<p><b>REGISTRAR'S NOTICE:</b> The Marine Resources Commission is claiming an exemption from Article 2 of 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.</p>
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**Title of Regulation:** **4VAC20-910. Pertaining to Scup (Porgy) (amending 4VAC20-910-45).**

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

**Effective Date:** November 1, 2014.

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](mailto:betty.warren@mrc.virginia.gov).

Summary:

*The amendment increases the possession limit for scup to 18,000 pounds during the period November 1 through December 31 of each year.*

**4VAC20-910-45. Possession limits and harvest quotas.**

A. During the period January 1 through April 30 of each year, it shall be unlawful for any person to do any of the following:

1. Possess aboard any vessel in Virginia more than 50,000 pounds of scup.
2. Land in Virginia more than a total of 50,000 pounds of scup during each consecutive seven-day landing period, with the first seven-day period beginning on January 1.

B. When it is projected and announced that 80% of the coastwide quota for this period has been attained, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than a total of 1,000 pounds of scup.

C. During the period November 1 through December 31 of each year, it shall be unlawful for any person to possess aboard any vessel or to land in Virginia more than ~~8,000~~ 18,000 pounds of scup.

D. During the period May 1 through October 31 of each year, the commercial harvest and landing of scup in Virginia shall be limited to 14,105 pounds.

E. For each of the time periods set forth in this section, the Marine Resources Commission will give timely notice to the industry of calculated poundage possession limits and quotas and any adjustments thereto. It shall be unlawful for any person to possess or to land any scup for commercial purposes after any winter period coastwide quota or summer period Virginia quota has been attained and announced as such.

F. It shall be unlawful for any buyer of seafood to receive any scup after any commercial harvest or landing quota has been attained and announced as such.

G. It shall be unlawful for any person fishing with hook and line, rod and reel, spear, gig, or other recreational gear to possess more than 30 scup. When fishing is from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by 30. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit. Any scup taken after the possession limit has been reached shall be returned to the water immediately.

VA.R. Doc. No. R15-4192; Filed October 31, 2014, 1:28 p.m.



**TITLE 9. ENVIRONMENT**

**VIRGINIA WASTE MANAGEMENT BOARD**

**Forms**

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the Virginia Waste Management Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

Title of Regulation: **9VAC20-130. Solid Waste Planning and Recycling Regulations.**

Contact Information: Melissa Porterfield, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

FORMS (9VAC20-130)

~~Locality Recycling Rate Report, DEQ Form 50-30 (rev. 2/06).~~

[Locality Recycling Rate Report for Calendar Year 2014, DEQ Form 50-30 \(rev. 10/14\)](#)

VA.R. Doc. No. R15-4197; Filed October 27, 2014, 3:11 p.m.

**Forms**

REGISTRAR'S NOTICE: The form listed below is no longer used in administering the following regulation.

Title of Regulation: **9VAC20-190. Litter Receptacle Regulations.**

Contact Information: Melissa Porterfield, Policy and Planning Specialist, Department of Environmental Quality, Policy and Planning Specialist, 629 East Main Street, Richmond, VA 23219, email [melissa.porterfield@deq.virginia.gov](mailto:melissa.porterfield@deq.virginia.gov).

FORMS (~~9VAC20-190~~)

~~Locality Recycling Rate Report, DEQ Form 50-30 (rev. 10/12/01).~~

VA.R. Doc. No. R15-4199; Filed October 27, 2014, 3:23 p.m.

**STATE WATER CONTROL BOARD**

**Forms**

REGISTRAR'S NOTICE: Forms used in administering the following regulation have been filed by the State Water Control Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

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# Regulations

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Titles of Regulations: **9VAC25-20. Fees for Permits and Certificates.**

**9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity.**

**9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining.**

**9VAC25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities.**

**9VAC25-210. Virginia Water Protection Permit Program Regulation.**

**9VAC25-610. Groundwater Withdrawal Regulations.**

**9VAC25-660. Virginia Water Protection General Permit for Impacts Less Than One-Half of an Acre.**

**9VAC25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by the Federal Energy Regulatory Commission or the State Corporation Commission and Other Utility Line Activities.**

**9VAC25-680. Virginia Water Protection General Permit for Linear Transportation Projects.**

**9VAC25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities.**

Contact Information: Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4209, or email [debra.harris@deq.virginia.gov](mailto:debra.harris@deq.virginia.gov).

FORMS (9VAC25-20)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 3/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Biosolids Land Application Local Monitoring Expenses Reimbursement Invoice, Form 1 \(rev. 6/13\)](#)

[Biosolids Land Application Local Monitoring Expenses Multiple Owners Payment Assignment, Form 2 \(rev. 6/13\)](#)

[Biosolids Land Application Fee Reimbursement Notice of Intent to Seek Reconsideration, Form 3 \(rev. 8/07\)](#)

[Biosolids Land Application Fee Reimbursement Reconsideration Claim Form, Form 4 \(rev. 8/07\)](#)

FORMS (9VAC25-151)

~~Department of Environmental Quality Water Quality Division Permit Application Fee Form (rev. 5/13)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[VPDES General Permit for Industrial Activity Stormwater Discharges \(VAR05\) Registration Statement, SWGP VAR05-RS \(eff. 7/14\)](#)

[VPDES General Permit for Industrial Activity Stormwater Discharges \(VAR05\) Notice of Termination, SWGP VAR05-NOT \(eff. 7/14\)](#)

[Virginia Pollutant Discharge Elimination System \(VPDES\) Discharge Monitoring Report \(DMR\) \(eff. 7/14\)](#)

[Virginia Pollutant Discharge Elimination System Change of Ownership Form \(undated\)](#)

FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division Permit Application Fee (rev. 5/13)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Change of Ownership Agreement Form \(rev. 3/14\)](#)

[VPDES General Permit for Nonmetallic Mineral Mining \(VAG84\) - Notice of Termination \(eff. 7/14\)](#)

[VPDES General Permit Registration Statement - Nonmetallic Mineral Mining \(rev. 2014\)](#)

FORMS (9VAC25-193)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 3/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Registration Statement for the General Virginia Pollutant Discharge Elimination System \(VPDES\) Permit for Concrete Products Facilities, VAG11 \(rev. 4/13\)](#)

FORMS (9VAC25-210)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 3/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia \(eff. 7/08\)](#)

[Joint Permit Application for Projects in Tidewater Virginia \(eff. 10/04\)](#)

[Virginia Department of Transportation, Joint Permit Application, IACM Coordination Form \(eff. 6/08\)](#)

[Monthly Reporting of Impacts Less than One-Tenth Acre Statewide \(eff. 8/07\)](#)

[DEQ Application for New or Expanded Minor Surface Water Withdrawals Initiated on or after July 25, 2007](#)

FORMS (9VAC25-610)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 3/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Application Instructions for Completing a Groundwater Withdrawal Permit Application \(rev. 11/13\)](#)

[Application for a Groundwater Withdrawal Permit \(rev. 9/12\)](#)

[Groundwater Withdrawal Permit - Change of Ownership Agreement Form \(rev. 11/13\)](#)

[Uncontested Termination Agreement \(rev. 11/13\)](#)

[Water Well Completion Report, Form GW2 \(eff. 7/07\)](#)

[Public Notice Authorization Form - Authorization for Public Notice Billing to Groundwater Withdrawal Permit Applicant \(rev. 11/13\)](#)

[Preapplication Meeting - Application for a Groundwater Withdrawal Permit \(rev. 9/12\)](#)

[Local and Areawide Planning Requirements \(rev. 9/12\)](#)

[Quarterly Groundwater Withdrawal Report \(rev. 11/13\)](#)

[Mitigation Plan \(rev. 11/13\)](#)

[Existing Users Groundwater Withdrawal Permit Application and Instructions \(eff. 2/14\)](#)

FORMS (9VAC25-660)

~~[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia \(eff. 10/04\)](#)

[Joint Permit Application for Projects in Tidewater, Virginia \(eff. 10/04\)](#)

[Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application \(eff. 10/02\)](#)

[Quarterly Reporting of Impacts Less than One-Tenth Acre \(insert reporting period\) Statewide \(eff. 4/03\)](#)

FORMS (9VAC25-670)

~~[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia \(rev. 10/04\)](#)

[Joint Permit Application for Projects in Tidewater, Virginia \(eff. 10/04\)](#)

[Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application \(eff. 10/02\)](#)

FORMS (9VAC25-680)

~~[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia \(eff. 10/04\)](#)

[Joint Permit Application for Projects in Tidewater, Virginia \(eff. 10/04\)](#)

[Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application \(eff. 10/02\)](#)

FORMS (9VAC25-690)

~~[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 3/14\)](#)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/14\)](#)

[Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia \(eff. 10/04\)](#)

[Joint Permit Application for Projects in Tidewater, Virginia \(eff. 10/04\)](#)

[Virginia Department of Transportation Inter-Agency Coordination Meeting Joint Permit Application \(eff. 10/02\)](#)

VA.R. Doc. No. R15-4208; Filed October 30, 2014, 10:33 a.m.

## Forms

**REGISTRAR'S NOTICE:** Forms used in administering the following regulation have been filed by the State Water Control Board. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the new or amended form to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

**Titles of Regulations:** **9VAC25-870. Virginia Stormwater Management Program (VSMP) Regulation.**

**9VAC25-880. General VPDES Permit for Discharges of Stormwater from Construction Activities.**

**Contact Information:** Debra Harris, Policy and Planning Specialist, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4209, or email [debra.harris@deq.virginia.gov](mailto:debra.harris@deq.virginia.gov).

FORMS (9VAC25-870)

[Application Form 1 - General Information, Consolidated Permits Program, EPA Form 3510-1 \(rev. 8/90\)](#)

~~[Construction Activity Operator Permit Fee Form, DEQ 199-213, \(eff. 08/13\)](#)~~

[Construction Activity Operator Permit Fee Form \(rev. 9/14\)](#)

FORMS (9VAC25-880)

~~[Department of Environmental Quality Construction Activity Operator Permit Fee Form \(rev. 1/14\)](#)~~

[Construction Activity Operator Permit Fee Form \(rev. 9/14\)](#)

[Notice of Termination - General VPDES Permit for Discharges of Stormwater from Construction Activities \(VAR10\) \(rev. 1/14\)](#)



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# Regulations

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[Registration Statement - General VPDES Permit for Discharges of Stormwater from Construction Activities \(VAR10\) \(rev. 7/14\)](#)

[Transfer of Ownership Agreement Form - General VPDES Permit for Discharges of Stormwater from Construction Activities \(VAR10\) \(rev. 1/14\)](#)

VA.R. Doc. No. R15-4209; Filed November 3, 2014, 3:37 p.m.



## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### COMMONWEALTH TRANSPORTATION BOARD

#### Final Regulation

<p><u>REGISTRAR'S NOTICE:</u> The Commonwealth Transportation Board is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.</p>
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Title of Regulation: **24VAC30-220. Virginia Alternative Fuels Revolving Fund Regulations (repealing 24VAC30-220-10).**

Statutory Authority: § 33.2-210 of the Code of Virginia.

Effective Date: October 23, 2014.

Agency Contact: David Roberts, Program Manager, Department of Transportation, 1401 East Broad Street, Richmond, VA 23219, telephone (804) 786-3620, FAX (804) 225-4700, or email david.roberts@vdot.virginia.gov.

Summary:

*Chapter 805 of the 2014 Acts of Assembly repealed the statutory provisions regarding the Virginia Alternative Fuels Revolving Fund; therefore, the associated regulations are repealed.*

VA.R. Doc. No. R15-4152; Filed October 23, 2014, 1:37 p.m.

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# GOVERNOR

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## EXECUTIVE ORDER NUMBER 32 (2014)

### **Advancing Virginia's Housing Policy**

#### Importance of the Issue

The sustained economic and social vitality of communities throughout the Commonwealth of Virginia depends upon the quality, availability, and affordability of housing. Housing is, and will remain, a key policy priority with far-reaching economic and social consequences. Successfully addressing homelessness, particularly among veterans and youth, requires a continued commitment of energy and resources. Advancing progress in special needs housing is also an imperative to ensure that individuals with disabilities have the opportunity to live in appropriate, fully integrated settings within communities rather than institutional facilities. Moreover, the housing industry is a major direct and indirect contributor to the growth of the state's economy.

The Commonwealth must build upon the foundation established by public and private constituencies to address homelessness, while identifying several new priority areas in which progress is needed and attainable. The availability of affordable housing is a critical component not only for individuals with developmental and intellectual disabilities, but also for a growing workforce. It is essential to coordinate housing and economic development investments.

Accordingly, by virtue of the power vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the Secretary of Commerce and Trade, with the assistance of the Director of the Department of Housing and Community Development, the Executive Director of the Virginia Housing Development Authority, and a representative of the Secretary of Health and Human Resources to identify and implement actions to enable quality, affordable housing, which will strengthen families and communities and foster economic growth.

#### Policy Review Initiatives

In developing Virginia's current housing policy, prior housing policy initiatives will be reviewed in addition to the following measures:

1. Prioritize the most urgent areas of housing and homeless program needs.
2. Identify the links between housing and economic and community development.
3. Establish working groups as determined by the Secretary of Commerce and Trade and invite stakeholder participation to provide input regarding housing and related issues.

4. Conduct a review of programs and policies in coordination with the activities of state-level housing and economic development policy-setting efforts.

5. Offer advice and recommendations for policies that address:

1. Homelessness, particularly among veterans, young adults, and children;
2. Rapid re-housing strategies;
3. Housing opportunities for individuals with disabilities and other categories of special needs;
4. Appropriate housing options for an aging demographic;
5. Economic and community development strategies integrated with housing initiatives for urban and rural revitalization, including adaptive reuse, mixed-use development and mixed-income housing, and the preservation of existing affordable housing;
6. Cross-Secretariat and agency collaboration and identification of resources to assist individuals receiving supportive services within a community, as appropriate, rather than in institutional settings; and
7. Affordable housing that meets the needs of working Virginians in areas where high housing costs impede economic development, productivity, and the quality of life.

#### Staffing and Funding

Staffing will be furnished by the Office of the Secretary of Commerce and Trade and the Secretary of Health and Human Resources, Department of Housing and Community Development, Virginia Housing Development Authority, and other agencies and offices as needed. Stakeholder participants in the review shall serve without compensation.

#### Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in force and effect until rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 30th day of October, 2014.

/s/ Terence R. McAuliffe  
Governor

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-40, Rules and Regulations Governing the Prevention, Control and Eradication of Bovine Tuberculosis in Virginia** and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated September 8, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

As stated previously, this regulation is important for the beef and dairy cattle industries. Many beef and dairy farms, as well as the processing plants that process the cattle, are small businesses. Without the safeguards this regulation provides, these small businesses take on a great amount of risk. If our "bovine tuberculosis free status" is compromised, other states and countries will not purchase Virginia cattle, thereby putting these small businesses out of business. Without this regulation, the risk of that happening becomes significantly higher and that risk may greatly decrease Virginia's beef and cattle farms and the small businesses that rely on them. There have been no complaints from the public, and the regulation is necessarily uncomplicated. This regulation complements USDA's Tuberculosis Uniform Methods and Rules and 9 CFR Part 77. Tuberculosis testing protocols are prescribed by USDA in these documents, but have at times been interpreted to only apply to cattle moving interstate. Virginia's regulation makes it clear what is required for testing and reporting in Virginia, even if tested cattle are not traveling interstate. USDA is currently in the process of releasing a proposed Tuberculosis Rule, and based on that rule, it is anticipated that this regulation may need to be revised in the future. Since the last time this regulation was evaluated, there have not been significant changes in technology, economic conditions, or other factors.

Contact Information: Dr. Charles Broaddus, Program Manager, Office of Veterinary Services, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, or email [charles.broaddus@vdacs.virginia.gov](mailto:charles.broaddus@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-90, Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia** and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings

dated September 12, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

Keeping this regulation as is will not have a significant negative impact on small businesses. There is a continued need for this regulation to stay in effect in order to protect poultry species and public health. If the regulation is not maintained, then the risk of pullorum disease and fowl typhoid could have a negative impact on small businesses and poultry producers who rely on poultry for the viability of their farms and businesses. This regulation is important for the poultry industry. There have been no complaints from the public and the regulation is necessarily uncomplicated. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. Since the last time this regulation was evaluated, there have not been significant changes in technology, economic conditions, or other factors.

Contact Information: Dr. Charles Broaddus, Program Manager, Office of Veterinary Services, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560, FAX (804) 371-2380, or email [charles.broaddus@vdacs.virginia.gov](mailto:charles.broaddus@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-150, Rules and Regulations Governing the Transportation of Companion Animals** and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated September 24, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

This regulation has minimal impact on small businesses. It establishes uniform and equitable requirements for the transportation of companion animals that do not place undue burdens on small versus large businesses. The agency has received no comments from small businesses that this regulation is burdensome. The regulation is not complex and complements federal regulations enacted pursuant to the federal Animal Welfare Act. This regulation is not outdated; no significant technological or economic developments have impacted the transportation of companion animals since the regulation was adopted.

Contact Information: Dr. Dan Kovich, Program Manager, Office of Animal Care and Health Policy, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-2483, FAX (804) 371-2380, or email [dan.kovich@vdacs.virginia.gov](mailto:dan.kovich@vdacs.virginia.gov).

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-310, Rules and**

**Regulations-Official Standards for Enforcement of the Virginia Apples: Grading, Packing, and Marking Law** and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated October 6, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

The agency is recommending that the regulation should remain in effect without change. The agency did not receive any comments regarding the regulation during the comment period. The regulation does not duplicate any state or federal laws. The agency last conducted a periodic review of this regulation in 2009. The agency continues to believe the current regulation is the least burdensome and least intrusive alternative on the apple industry and small businesses.

Contact Information: Dennis Clary, Program Manager, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1933, FAX (804) 371-7785, or email [dennis.clary@vdacs.virginia.gov](mailto:dennis.clary@vdacs.virginia.gov).

### **Small Business Impact Review - Report of Findings**

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Agriculture and Consumer Services conducted a small business impact review of **2VAC5-590, Rules and Regulations Pertaining to Tolerances and Prohibitions Applicable to Ground Beef** and determined that this regulation should be retained in its current form. The Department of Agriculture and Consumer Services is publishing its report of findings dated October 3, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

This regulation is still needed because it is still necessary to ensure that ground beef products are produced according to and meet minimum acceptable standards relative to product formulation and saturated fat content. It also ensures that consumers are duly informed via product labeling and placard displays regarding the fat content of ground beef products and allows consumers to make optimal health choices regarding the level of saturated fat consumed when ground beef products are purchased.

Without this regulation, it will be difficult to find other means by which to ensure that ground beef products meet acceptable standards. Federal regulations also exist that mandate a maximum fat content of 30% in ground beef products. However, these federal regulations are primarily enforced and policed at meat processing facilities. The subject regulation (2VAC5-590) is typically applied to ground beef products formulated and/or sold at retail food stores, enforced at that level, and creates specific production standards applicable to retail environments. Since the last time this regulation was evaluated, there have not been significant changes in technology, economic conditions, or other factors that would

impact this regulation. This regulation was promulgated with due concerns for the industry and has minimal impact on small businesses. It is recommended that the regulation remain in place without modification. There have been no complaints received relative to this regulation.

Contact Information: Ryan Davis, Program Manager, Office of Dairy and Foods, Virginia Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8910, FAX (804) 371-7792, or email [ryan.davis@vdacs.virginia.gov](mailto:ryan.davis@vdacs.virginia.gov).

### **AIR POLLUTION CONTROL BOARD**

#### **State Implementation Plan Proposed Revision - Public Comment Opportunity**

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act. The Commonwealth intends to submit the regulation to EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Regulations affected: The regulation of the board affected by this action is the Regulation for General Administration, 9VAC5-170 (Revision F14).

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: November 17, 2014, through December 17, 2014.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed below. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: The regulation amendments are exempt from the state administrative procedures for adoption of regulations contained in Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act by the provisions of § 2.2-4006 A 4 c of the Administrative Process Act because they are necessary to meet the requirements of the federal Clean Air Act and do not differ materially from the pertinent Act provisions. Since the amendments have been adopted and are exempt from administrative procedures for the adoption of regulations, DEQ is accepting comment only on the issue

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## General Notices/Errata

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cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: Section 110(a)(2)(E)(ii) of the Clean Air Act requires that each applicable SIP provide requirements that the state comply with the requirements respecting state boards under § 128 of the Act. Subdivision (a)(1) of § 128 requires that each SIP contain requirements that any board or body that approves permits or enforcement orders under the Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under the Act. In Virginia, this is addressed in § 10.1-1302 of the Code of Virginia. Subdivision (a)(2) of § 128 of the Act requires that any potential conflicts of interest by members of such board or body, or by the head of an executive agency with similar powers, be adequately disclosed. Because there are no provisions in the Air Pollution Control Law or the board's regulations that directly address § 128(a)(2) of the Act, the Virginia SIP must be amended to incorporate the requirements of § 128(a)(2); the mechanism for accomplishing this is through the Regulation for General Administration, which covers general administrative actions.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the SIP with the exception of 9VAC5-170-210 B, which is set to become effective November 19, 2014.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All materials received are part of the public record.

To review regulation documents: The proposal and any supporting document are available on the DEQ Air Public Notices for Plans website: <http://www.deq.state.va.us/Programs/Air/PublicNotices/airplansandprograms.aspx>. The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, Virginia, telephone (804) 698-4070,
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, Virginia, telephone (276) 676-4800,

3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, Virginia, telephone (540) 562-6700,

4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, Virginia, telephone (434) 582-5120,

5) Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia, telephone (540) 574-7800,

6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia, telephone (804) 527-5020,

7) Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia, telephone (703) 583-3800, and

8) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, Virginia, telephone (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email [karen.sabasteanski@deq.virginia.gov](mailto:karen.sabasteanski@deq.virginia.gov).

### STATE CORPORATION COMMISSION

#### Bureau of Insurance

October 6, 2014

Administrative Letter 2014-05

To: All Companies Licensed under Chapters 10, 11, 12, 40, 41, 42, 45 or 61 of Title 38.2 of the Code of Virginia

Re: Virginia Life, Accident and Sickness Insurance Guaranty Association

Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association

The provisions of this administrative letter replace the provisions of Administrative Letter 2010-12.

The purpose of this Administrative Letter is to inform life, accident and sickness companies (insurers) subject to Chapter 17 of Title 38.2 of the Code of Virginia of the updated disclaimer required to be attached to policies in order to comply with the provisions of § 38.2-1715 of the Code of Virginia.

Chapter 510, which became effective July 1, 2010, amended and re-enacted § 38.2-1442 (Investments) and §§ 38.2-1700 through 38.2-1715 (Virginia Life, Accident and Sickness Insurance Guaranty Association) updating and expanding the scope of the Guaranty Association. Pursuant to amendments in § 38.2-1715, the Guaranty Association is required to prepare and submit to the Commission for approval, a summary document describing the general purposes and limitations of Chapter 17, which includes a disclaimer that discusses limitations, exclusions, and the types of policies that are covered by the Guaranty Association.

The summary document entitled Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association (Notice), was approved effective November 1, 2010. This Notice has been revised to include the new address of the Virginia Life, Accident and Sickness Insurance Guaranty Association, and the new Bureau of Insurance web address. Beginning January 1, 2015, insurers are required to attach this revised Notice to policies or contracts delivered to policy or contract owners. The Bureau would also like to clarify that insurers are required to attach this Notice to policies or contracts delivered to Virginia policy or contract owners only. Insurers are required to retain evidence of compliance with this Notice requirement so long as the policy or contract remains in effect.

Questions regarding this letter may be directed to: Mary Ann Mason, Principal Insurance Market Examiner, Forms and Rates Section, Life and Health Division, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, Virginia 23218, telephone (804) 371-9348, or email [maryann.mason@scc.virginia.gov](mailto:maryann.mason@scc.virginia.gov).

/s/ Jacqueline K. Cunningham  
Commissioner of Insurance

NOTICE OF  
PROTECTION PROVIDED BY  
VIRGINIA LIFE, ACCIDENT AND SICKNESS  
INSURANCE GUARANTY ASSOCIATION

This notice provides a brief summary of the Virginia Life, Accident and Sickness Insurance Guaranty Association ("the Association") and the protection it provides for policyholders. This safety net was created under Virginia law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that a life, annuity or health insurance company licensed in the Commonwealth of Virginia becomes financially unable to meet its obligations and is taken over by its Insurance Department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with Virginia law, with funding from assessments paid by other life and health insurance companies licensed in the Commonwealth of Virginia.

The basic protections provided by the Association are:

- Life Insurance
  - o \$300,000 in death benefits
  - o \$100,000 in cash surrender or withdrawal values
- Health Insurance
  - o \$500,000 in hospital, medical and surgical insurance benefits
  - o \$300,000 in disability [income] insurance benefits

- o \$300,000 in long-term care insurance benefits
- o \$100,000 in other types of health insurance benefits
- Annuities
  - o \$250,000 in withdrawal and cash values

The maximum amount of protection for each individual, regardless of the number of policies or contracts, is \$350,000, except for hospital, medical and surgical insurance benefits, for which the limit is increased to \$500,000.

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. There are also various residency requirements and other limitations under Virginia law.

To learn more about the above protections, please visit the Association's website at [www.valifega.org](http://www.valifega.org) or contact: Virginia Life, Accident and Sickness, Insurance Guaranty Association, c/o APM Management Services, Inc., 1503 Santa Rosa Road, Suite 101, Henrico, VA 23229-5105, telephone (804) 282-2240.

State Corporation Commission, Bureau of Insurance, P. O. Box 1157, Richmond, VA 23218-1157, telephone (804) 371-9741, Toll Free Virginia only: 1-800-552-7945, <http://scc.virginia.gov/boi/index.aspx>.

**Insurance companies and agents are not allowed by Virginia law to use the existence of the Association or its coverage to encourage you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and Virginia law, then Virginia law will control.**

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Public Notice to Review and Provide Comment on the Priority Areas for TMDL and Watershed Plan Development

Purpose of notice: The Virginia Department of Environmental Quality (DEQ) is seeking input and comments on the 2015 priority areas for total maximum daily load (TMDL) and watershed plan development. These areas have been listed as impaired in Virginia's Water Quality Assessment § 305(b)/303(d) Integrated Report. Developing plans to address and restore impaired waters is required by § 62.1-44.2 of the Code of Virginia.

Public comment period: November 17, 2014, through December 17, 2014.

Description of proposed action: In 2015, DEQ staff plan to continue or initiate TMDLs or watershed plans in the following areas:

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Project Area	City/County	Listed Impairment
New River PCB	Giles, Montgomery, Pulaski, Radford City, Wythe	PCB
Wolf Creek and tributaries	Bland, Tazewell, Giles	Bacteria
Long Meadow Run and Turley Creek	Rockingham, Shenandoah	Benthic <sup>1</sup>
Meadow Creek and Schenks Branch	Charlottesville, Albemarle	Benthic
Accotink Creek Benthic	Fairfax	Benthic
South Fork Holston River and tributaries	Smyth	Bacteria
Mattaponi Watershed Bacteria	Spotsylvania, King William, and Caroline	Bacteria
Stony Run (stressor analysis)	Henrico	Benthic
Lower Chickahominy River and tributaries	Charles City, New Kent	Bacteria, Dissolved Oxygen (DO)
Little Mosquito Creek and Assawoman Creek	Accomack	DO
Nassawadox Creek and tributaries	Northampton	Bacteria
Walker Creek and tributaries	Bland, Giles	Bacteria
North Fork Catoctin Creek Benthic TMDL	Loudoun	Benthic
Kits Creek (stressor analysis)	Lunenburg	Benthic
Bluestone Creek	Mecklenburg	Bacteria
Nottoway River and Crooked Creek	Nottoway, Dinwiddie	Bacteria
Kerr Reservoir tributaries	Mecklenburg	Bacteria
Jeffries Branch	Loudoun, Fauquier	Benthic
Woods Creek	Lexington, Rockbridge	Bacteria, Benthic
McClure River	Dickenson	Benthic

<sup>1</sup> Evidence of a degraded biological (benthic) community is a strong indicator that a water does not support the aquatic life designated use. More information on Virginia's biological monitoring program is available at the following website:

<http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/WaterQualityMonitoring/BiologicalMonitoring.aspx>.

TMDL reports and watershed plans are developed in accordance with federal regulations (40 CFR 130.7) and are exempt from the provisions of Article 2 (§ 2.2-4006 et seq.) of the Virginia Administrative Process Act. The reports are subject to the TMDL public participation process contained in DEQ's Public Participation Procedures for Water Quality Management Planning. The public comment process provides the affected stakeholders an opportunity for public input on the TMDL development process. Once completed, draft reports are available for public review and comment on DEQ's website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/DraftTMDLReports.aspx>.

**How to comment:** The DEQ accepts written comments by email, fax, and postal mail. All written comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period.

**How a decision is made:** After comments have been considered, DEQ will make the final decision on 2015 priority areas. Comments will also be used for prioritizing waters in future work plans.

Contact for public comments, document requests, and additional information: Sandra Mueller, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4324, FAX (804) 698-4032, or email [sandra.mueller@deq.virginia.gov](mailto:sandra.mueller@deq.virginia.gov).

## VIRGINIA LOTTERY

### Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on October 28, 2014. The orders may be viewed at the Virginia Lottery, 900 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, Virginia.

#### Director's Order Number One Hundred Eight (14)

"Have You Played?" Retailer Incentive Promotion Virginia Lottery Retailer Incentive Program Requirements (This Director's Order is effective on December 1, 2014, and shall remain in full force and effect until ninety (90) days after the conclusion of the Incentive Program, unless otherwise extended by the Director)

### Director's Order Number One Hundred Eleven (14)

"Lottery Express Out of Stock" Retailer Incentive Promotion Virginia Lottery Retailer Incentive Program Requirement (This Director's Order is effective on November 1, 2014, and shall remain in full force and effect until ninety (90) days after the conclusion of the Incentive Program, unless otherwise extended by the Director)

### Director's Order Number One Hundred Seventeen (14)

Virginia Lottery's Winter Bonus Final Rules for Operation (effective November 4, 2014)

### Director's Order Number One Hundred Eighteen (14)

"You Activate/We Pay" Virginia Lottery Retailer Incentive Program Requirements (This Director's Order is effective on November 4, 2014, and shall remain in full force and effect until ninety (90) days after the conclusion of the Incentive Program, unless otherwise extended by the Director)

### Director's Order Number One Hundred Twenty-One (14)

Virginia Lottery's "Cash & Gas" Promotion Final Rules for Operation (This Director's Order becomes effective on Tuesday, October 14, 2014, rescinds and replaces Director's Order One Hundred Six (14), and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Twenty-Two (14)

Certain Virginia Computer-Generated Game; End of Game - Win For Life - Virginia 28 (14) (This Director's Order is effective nunc pro tunc to end of system day, September 14, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Twenty-Five (14)

Virginia's Instant Game Lottery 1506 "Hot Shot" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Twenty-Six (14)

Virginia's Instant Game Lottery 1526 "Cash & Gas" Final Rules for Game Operation (effective September 24, 2014)

### Director's Order Number One Hundred Twenty-Seven (14)

Virginia's Instant Game Lottery 1501 "Gold" Final Rules for Game Operation (effective September 23, 2014)

### Director's Order Number One Hundred Twenty-Eight (14)

Virginia's Instant Game Lottery 1443 "Money Bag Crossword" Final Rules for Game Operation (effective September 24, 2014)

### Director's Order Number One Hundred Twenty-Nine (14)

Virginia's Instant Game Lottery 1518 "Wrap It Up!" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-One (14)

Virginia's Computer-Generated Game Lottery "New Year's Millionaire Raffle" Final Rules for Game Operation (effective November 4, 2014)

### Director's Order Number One Hundred Thirty-Two (14)

Virginia Lottery's "Mega Power \$10K Bonus" Final Rules for Operation (effective October 5, 2014)

### Director's Order Number One Hundred Thirty-Three (14)

Virginia's Instant Game Lottery 1507 "High Roller" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-Four (14)

Virginia's Instant Game Lottery 1512 "Holiday Double Match" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-Five (14)

Virginia's Instant Game Lottery 1505 "Holiday Magic" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-Six (14)

Virginia's Instant Game Lottery 1504 "Peppermint Payout" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-Seven (14)

Virginia's Instant Game Lottery 1520 "Casino Nights" Final Rules for Game Operation (effective October 7, 2014)

### Director's Order Number One Hundred Thirty-Eight (14)

Certain Virginia FastPlay Game; End of Game - Virginia Lottery's FastPlay Hot N Spicy Bingo 49 (14) (This Director's Order is effective nunc pro tunc to September 8, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Thirty-Nine (14)

Certain Virginia FastPlay Game; End of Game - Virginia Lottery's FastPlay \$15,000 Money Mania 47 (14) (This Director's Order is effective nunc pro tunc to September 8, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Forty (14)

Certain Virginia FastPlay Game; End of Game - Virginia Lottery's FastPlay Vacation Cash 81 (14) (This Director's Order is effective nunc pro tunc to September 8, 2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Forty-One (14)

Certain Virginia FastPlay Game; End of Game - Virginia Lottery's FastPlay Blackjack Bonanza 117 (13) (This Director's Order is effective nunc pro tunc to September 8,



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2014, and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Forty-Two (14)

"7-Eleven Holiday Contest" "Retailer Incentive Promotion Virginia Lottery Retailer Incentive Program Requirements (This Director's Order is effective on November 6, 2014, and shall remain in full force and effect until ninety (90) days after the conclusion of the Incentive Program, unless otherwise extended by the Director)

### Director's Order Number One Hundred Forty-Four (14)

Virginia's Computer-Generated Game "Decades of Dollars" Final Rules for Game Operation (This Director's Order becomes effective with tickets purchased for the October 20, 2014, drawing or later and shall remain in full force and effect unless amended or rescinded by further Director's Order. Upon the effective date, these rules shall supersede and replace any and all prior Virginia Lottery "Decades of Dollars" game rules)

### Director's Order Number One Hundred Forty-Six (14)

Virginia Lottery's "The Big \$20 Haul" Promotion Final Rules for Operation (This Director's Order becomes effective on Tuesday, October 14, 2014, rescinds Director's Order 124 (14), and shall remain in full force and effect unless amended or rescinded by further Director's Order)

### Director's Order Number One Hundred Forty-Seven (14)

Virginia Lottery's "Collegiate Let's Play VA" Final Rules for Operation (effective October 11, 2014)

### Director's Order Number One Hundred Forty-Eight (14)

Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on Friday, October 17, 2014:

Game 1262	Million Dollar Cash Spectacular
Game 1253	Million Dollar Cash Bonanza
Game 1188	\$70 Million Payout Spectacular
Game 1470	The Venetian 1470
Game 1451	\$100,000 Crossword
Game 1441	Poker
Game 1333	Hit The Jackpot
Game 1427	Red Hot Crossword
Game 1319	Diamond Bingo
Game 1456	I Heart Bacon
Game 1423	Double Match

Game 1477      Black Cherry Doubler

Game 1457      7-11-21

Game 1453      21 Blackjack

The last day for lottery retailers to return for credit unsold tickets from any of these games will be Friday, December 5, 2014. The last day to redeem winning tickets for any of these games will be Wednesday, April 14, 2015, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of Wednesday, April 14, 2015, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia, and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Paula I. Otto  
Executive Director  
October 15, 2014

## **BOARD OF PHARMACY**

### **Notice of Public Hearing for Scheduling Certain Substances**

Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy is giving notice of a public hearing to consider placement of chemical substances in Schedule I of the Drug Control Act. The public hearing will be conducted at 9 a.m. on December 9, 2014, at the Perimeter Center, 9960 Mayland Drive, Suite 201, Board Room 2, Richmond, VA 23233. Public comment may also be submitted prior to December 9, 2014, to Caroline Juran, Executive Director of the Board of Pharmacy via email at [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

As specified in § 54.1-3443 of the Code of Virginia, the Virginia Department of Forensic Science (DFS) has identified three compounds for recommended inclusion by the Board of Pharmacy into Schedule I in the Code of Virginia. The board believes the Drug Enforcement Administration (DEA) is currently working to place these compounds into Schedule I federally. Other drugs of this type have been placed in Schedule I in previous legislative sessions. A brief description and chemical name for each compound is as follows:

1. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA) AB-CHMINACA is classified as a cannabimimetic agent and has been identified in all four DFS laboratories.

2. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name: 5-fluoro-AMB) 5-fluoro-AMB is classified as a cannabimimetic agent and has been identified in two of the four DFS laboratories.

3. 3,4-methylenedioxy-N,N-dimethylcathinone (other names: Dimethylone, bk-MDDMA) Dimethylone is classified as a substituted cathinone, and has been identified in two of the four DFS laboratories.

If approved by the Board of Pharmacy, the placement of these substances in Schedule I in the Virginia Drug Control Act shall remain in effect for a period of 18 months from the date of board action and shall then be de-scheduled unless the Drug Control Act is amended by enactment of legislation by the General Assembly.

Contact Information: Caroline Juran, RPh, Executive Director, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4416, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

## DEPARTMENT OF SOCIAL SERVICES

### Small Business Impact Review - Report of Findings

Pursuant to § 2.2-4007.1 of the Code of Virginia, the Department of Social Services conducted a small business impact review of **22VAC40-400, Funding Limitations for the Refugee Resettlement Program**, and determined that this regulation should be retained in its current form. The Department of Social Services is publishing its report of findings dated October 15, 2014, to support this decision in accordance with § 2.2-4007.1 F of the Code of Virginia.

This regulation has no impact on existing or potential Virginia employers' ability to maintain and increase the number of jobs in the Commonwealth. There is no cost of compliance to the general public.

- (1) The regulation was reviewed by the Attorney General's Office in 2013 and determined to be needed.
- (2) No public complaints were received.
- (3) The regulation is concise and understandable.
- (4) The regulation does not overlap or duplicate any other federal or state rule.
- (5) A periodic review of this regulation was conducted in 2010. A review by the Department of Social Services and Attorney General's Office conducted in 2013 found the regulation to be needed. No technology or economic

conditions were found to have changed the need for this regulation.

Contact Information: Penelope Boyd, Refugee Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7933, FAX (804) 726-7088, or email [penny.boyd@dss.virginia.gov](mailto:penny.boyd@dss.virginia.gov).

## STATE WATER CONTROL BOARD

### Proposed Enforcement Action: Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of Gloucester, Isle of Wight, and York; the James City Service Authority; and the Town of Smithfield

Enforcement actions have been proposed for the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of Gloucester, Isle of Wight, and York; the James City Service Authority; and the Town of Smithfield, all located in Virginia. Descriptions of the proposed actions are available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Maria Nold will accept comments by email at [maria.nold@deq.virginia.gov](mailto:maria.nold@deq.virginia.gov), FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from November 17, 2014, through December 18, 2014.

### Proposed Consent Order for CSX Transportation, Inc.

An enforcement action has been proposed for CSX Transportation, Inc. for alleged violations of the State Water Control Law in Franklin, Virginia. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Mr. Robin Schuhmann will accept comments by email at [robin.schuhmann@deq.virginia.gov](mailto:robin.schuhmann@deq.virginia.gov), FAX at (757) 518-2009, or postal mail at Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462, from November 17, 2014, through December 18, 2014.

### Proposed Consent Order for Massanutten Public Service Corporation

An enforcement action has been proposed for Massanutten Public Service Corporation for violations at the Massanutten Public Service Corporation facility in McGaheysville, Virginia. The State Water Control Board proposes to issue a consent order to Massanutten Public Service Corporation to address noncompliance with State Water Control Law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Karen Hensley will accept

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## General Notices/Errata

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comments by email at [karen.hensley@deq.virginia.gov](mailto:karen.hensley@deq.virginia.gov), FAX at (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from November 17, 2014, through December 17, 2014.

### **Proposed Enforcement Action for Roanoke Valley Resource Authority**

An enforcement action has been proposed for the Roanoke Valley Resource Authority for violations of State Water Control Law and the applicable permit and regulations at the Smith Gap Regional Landfill. The proposed enforcement action includes a civil charge. A description of the proposed action is available at the Department of Environmental Quality office named below or online at [www.deq.virginia.gov](http://www.deq.virginia.gov). Robert Steele will accept comments by email at [robert.steele@deq.virginia.gov](mailto:robert.steele@deq.virginia.gov), FAX at (540) 562-6777, or postal mail at Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, from November 17, 2014, through December 16, 2014.

### **VIRGINIA CODE COMMISSION**

#### **Notice to State Agencies**

**Contact Information:** *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 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/connect/commonwealth-calendar>.

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

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