



# VIRGINIA

## REGISTER OF REGULATIONS

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FEBRUARY 19, 2018

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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. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **Gregory D. Habeeb**; **Ryan T. McDougle**; **Robert L. Calhoun**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Mark J. Vucci**.

Staff of the Virginia Register: **Karen Perrine**, Acting Registrar of Regulations; **Anne Bloomsburg**, Assistant Registrar; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

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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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### February 2018 through January 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
34:13	January 31, 2018	February 19, 2018
34:14	February 14, 2018	March 5, 2018
34:15	February 28, 2018	March 19, 2018
34:16	March 14, 2018	April 2, 2018
34:17	March 28, 2018	April 16, 2018
34:18	April 11, 2018	April 30, 2018
34:19	April 25, 2018	May 14, 2018
34:20	May 9, 2018	May 28, 2018
34:21	May 23, 2018	June 11, 2018
34:22	June 6, 2018	June 25, 2018
34:23	June 20, 2018	July 9, 2018
34:24	July 3, 2018 ( <b>Tuesday</b> )	July 23, 2018
34:25	July 18, 2018	August 6, 2018
34:26	August 1, 2018	August 20, 2018
35:1	August 15, 2018	September 3, 2018
35:2	August 29, 2018	September 17, 2018
35:3	September 12, 2018	October 1, 2018
35:4	September 26, 2018	October 15, 2018
35:5	October 10, 2018	October 29, 2018
35:6	October 24, 2018	November 12, 2018
35:7	November 7, 2018	November 26, 2018
35:8	November 19, 2018 ( <b>Monday</b> )	December 10, 2018
35:9	December 5, 2018	December 24, 2018
35:10	December 14, 2018 ( <b>Friday</b> )	January 7, 2019

\*Filing deadlines are Wednesdays unless otherwise specified.

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# PETITIONS FOR RULEMAKING

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## TITLE 11. GAMING

### CHARITABLE GAMING BOARD Agency Decision

Title of Regulation: 11VAC15-40. Charitable Gaming Regulations.

Statutory Authority: § 18.2-340.15 of the Code of Virginia.

Name of Petitioner: Katherine Phelps, on behalf of patrons of the Redwood Community Association Bingo.

Nature of Petitioner's Request: Petitioner requests that the Charitable Gaming Board repeal subsection E of 11VAC15-40-110 of the Charitable Gaming Regulations, which states, in part, that no landlord, his agent or employee, member of his immediate family, or person residing in the same household shall at charitable games conducted on the landlord's premises participate in the management, operation, or conduct of any charitable games. Petitioner further states: "If this rule cannot be repealed, all bingo halls should be compelled to comply with this rule and not single out just one bingo hall. If all bingo halls are not compelled to comply, that is discrimination on the part of the gaming commission. We, the undersigned, are patrons at Redwood Community Association Bingo and notice their owners are no longer working bingo. However, when visiting other bingo halls, we notice that the owners of the property are head of the bingo and family members are workers, managers, etc."

Agency Decision: Request denied.

Statement of Reason for Decision: The Charitable Gaming Board voted to take no action on the petitioner's request for rulemaking for the following reasons: The Charitable Gaming Regulations, 11VAC15-40, was promulgated pursuant to the charitable gaming statutes of the Code of Virginia. Section 18.2-340.16 of the charitable gaming statute defines "landlord" as "any person or his agent, firm, association, organization, partnership, or corporation, employee, or immediate family member thereof, which owns and leases, or leases any premises devoted in whole or in part to the conduct of bingo games, and any person residing in the same household as a landlord." Section 18.2-340.33(7) of the charitable gaming statute states "no landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games..." As such, 11VAC15-40-110 E of the Charitable Gaming Regulations, which states "no landlord, his agent or employee, member of his immediate family, or person residing in the same household shall at charitable games conducted on the landlord's premises participate in the management, operation, or conduct of any charitable games," is a restatement of the existing law. The board does not have the authority to allow by regulation conduct that is prohibited by law, thus the board voted to take no action on the

petitioner's request. The board noted that, though it is sympathetic to the petitioner's request, maintaining a distinction between the landlord and the organization that is leasing a premises from the landlord in order to conduct bingo is paramount in promoting integrity within charitable gaming throughout the Commonwealth.

Agency Contact: Michael Menefee, Program Manager, Charitable and Regulatory Programs, Department of Agriculture and Consumer Services, 102 Governor Street, Richmond, VA 23219, telephone (804) 786-3983, or email michael.menefee@vdacs.virginia.gov.

VA.R. Doc. No. R18-06; Filed January 19, 2018, 1:29 p.m.



## TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

### COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM

#### Initial Agency Notice

Title of Regulation: 24VAC35-30. Virginia Alcohol Safety Action Program Case Management Policy and Procedure Manual.

Statutory Authority: § 18.2-270.1 of the Code of Virginia.

Name of Petitioner: David Hites.

Nature of Petitioner's Request: On January 12, 2018, citing § 2.2-4007 of the Code of Virginia, David Hites requested changes to § 18.2-270.1 of the Code of Virginia and the VASAP Case Management Operational Guidelines.

Agency Plan for Disposition of Request: The petitioner's request will be considered at the next Commission on VASAP meeting on March 29, 2018.

Public Comment Deadline: March 11, 2018.

Agency Contact: Richard Foy, Field Service Specialist, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, or email rfoy@vasap.virginia.gov.

VA.R. Doc. No. R18-21; Filed January 25, 2018, 11:21 a.m.

#### Initial Agency Notice

Title of Regulation: 24VAC35-60. Ignition Interlock Program Regulations.

Statutory Authority: §§ 18.2-270.1 and 18.2-270.2 of the Code of Virginia.

Name of Petitioner: Cynthia Hites.

Nature of Petitioner's Request: On January 26, 2018, citing § 2.2-4007 of the Code of Virginia, Cynthia Hites requested

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## Petitions for Rulemaking

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changes to §§ 18.2-270.1, 18.2-270.2 of the Code of Virginia and Virginia Administrative Code 24VAC35-60 with regard to the terms "alcohol" and "ethanol."

Agency Plan for Disposition of Request: The petitioner's request will be considered at the next Commission on VASAP meeting on March 29, 2018.

Public Comment Deadline: March 11, 2018.

Agency Contact: Richard Foy, Field Service Specialist, Commission on the Virginia Alcohol Safety Action Program, 701 East Franklin Street, Suite 1110, Richmond, VA 23219, telephone (804) 786-5895, or email rfoy@vasap.virginia.gov.

VA.R. Doc. No. R18-22; Filed January 26, 2018, 11:45 a.m.

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# NOTICES OF INTENDED REGULATORY ACTION

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## TITLE 9. ENVIRONMENT

4195, FAX (804) 698-4032, or email  
matthew.richardson@deq.virginia.gov.

### STATE WATER CONTROL BOARD

VA.R. Doc. No. R18-5397; Filed January 24, 2018, 8:46 a.m.

#### Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-151, General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity**. The purpose of the proposed action is to amend and reissue the VPDES general permit for stormwater discharges from industrial activity. The permit expires on June 30, 2019, and needs to be reissued so that industrial facilities with point source discharges to surface waters of stormwater from regulated industrial activities can continue to have general permit coverage. Issues to be considered are registration statement requirements, electronic reporting requirements, effluent limitations review, definitions clarification, facility inspections, Stormwater Pollution Prevention Plan (SWPPP) corrective actions, benchmark monitoring, total maximum daily load (TMDL) requirements review, and industry-sector specific monitoring requirements review.

In addition, pursuant to Executive Order 17 (2014) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether (i) the regulation is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) the regulation minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; (iii) the regulation is designed to achieve its intended objective in the most efficient, cost-effective manner; (iv) the regulation is clearly written and easily understandable; (v) the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (vi) technology, economic conditions, or other factors have changed in the area affected by the regulation since the last review.

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

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

Public Comment Deadline: March 21, 2018.

Agency Contact: Matthew Richardson, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-

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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 4VAC20-720-40).**

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

Effective Dates: January 31, 2018, through February 23, 2018.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

#### Preamble:

*The amendments extend the public oyster harvest season in York River Rotation Area 1, Rappahannock River Rotation Area 6, Rappahannock River Area 7, Great Wicomico River Rotation Area 1, and the Upper Chesapeake Bay - Blackberry Hangs Area from January 31, 2018, to February 9, 2018.*

#### **4VAC20-720-40. Open oyster harvest season and areas.**

A. It shall be unlawful for any person to harvest oysters from public and unassigned grounds outside of the seasons and areas set forth in this section.

B. It shall be unlawful to harvest clean cull oysters from the public oyster grounds and unassigned grounds except during the lawful seasons and from the lawful areas as described in the following subdivisions of this subsection.

1. James River Seed Area, including the Deep Water Shoal State Replenishment Seed Area: October 1, 2017, through April 30, 2018.
2. Milford Haven: December 1, 2017, through February 28, 2018.
3. Rappahannock River Area 9: November 1, 2017, through December 31, 2017.
4. Little Wicomico River: October 1, 2017, through December 31, 2017.

5. Coan River Area: October 1, 2017, through December 31, 2017.

6. Yeocomico River Area: October 1, 2017, through December 31, 2017.

7. Nomini Creek Area: October 1, 2017, through December 31, 2017.

8. Mobjack Bay Area: October 1, 2017, through October 31, 2017 (hand tong only) and February 1, 2018, through February 28, 2018 (hand scrape only).

9. York River Rotation Area 1: January 1, 2018, through ~~January 31,~~ February 9, 2018.

10. Rappahannock River Rotation Area 1: October 1, 2017, through November 30, 2017.

11. Rappahannock River Rotation Area 6: November 1, 2017, through November 30, 2017 (patent tong only) and December 1, 2017, through ~~January 31,~~ February 9, 2018. (hand scrape only).

12. Rappahannock River Area 7: December 1, 2017, through ~~January 31,~~ February 9, 2018.

13. Great Wicomico River Rotation Area 1: December 1, 2017, through ~~January 31,~~ February 9, 2018.

14. Upper Chesapeake Bay - Blackberry Hangs Area: December 1, 2017, through ~~January 31,~~ February 9, 2018.

15. James River Hand Scrape Areas 1 and 3: December 1, 2017, through February 28, 2018.

16. James River Hand Scrape Area 2: October 1, 2017, through December 31, 2017.

17. Pocomoke and Tangier Sounds Rotation Area 1: December 1, 2017, through February 28, 2018.

18. Deep Rock Area: December 1, 2017, through February 28, 2018.

19. Seaside of the Eastern Shore (for clean cull oysters only): November 1, 2017, through March 31, 2018.

C. It shall be unlawful to harvest seed oysters from the public oyster grounds or unassigned grounds, except during the lawful seasons. The harvest of seed oysters from the lawful areas is described in the following subdivisions of this subsection.

1. James River Seed Area: October 1, 2017, through May 31, 2018.



2. Deep Water Shoal State Replenishment Seed Area: October 1, 2017, through May 31, 2018.

VA.R. Doc. No. R18-5396; Filed January 24, 2018, 2:14 p.m.

**Final Regulation**

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

**Title of Regulation:** **4VAC20-1120. Pertaining to Tilefish and Grouper (amending 4VAC20-1120-30).**

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

**Effective Date:** February 1, 2018.

**Agency Contact:** Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone (757) 247-2248, or email jennifer.farmer@mrc.virginia.gov.

**Summary:**

*The amendments establish the recreational harvest and possession limit for golden tilefish as eight fish.*

**4VAC20-1120-30. Recreational harvest and possession limit.**

A. ~~The recreational harvest, landing and possession limit for tilefish, as described in 4VAC20-1120-20, shall be seven fish. It shall be unlawful for any person to fishing recreationally harvest, land or to possess or land more than seven eight golden tilefish within or without in Virginia tidal waters. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for tilefish shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by seven. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.~~

B. The recreational harvest, landing, and possession limit for grouper, as described in 4VAC20-1120-20, shall be one fish. It shall be unlawful for any person to recreationally harvest, land, or possess more than one grouper within or without Virginia tidal waters. ~~When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limit for grouper shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by one. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.~~

C. When fishing recreationally from any boat or vessel, where the entire catch is held in a common hold or container, the boat or vessel possession limit for any species described in subsection A or B of this section shall be equal to the sum

of the personal possession limits, as described in subsection A or B of this section, of those persons on board legally eligible to fish. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

VA.R. Doc. No. R18-5391; Filed January 24, 2018, 2:04 p.m.

**TITLE 8. EDUCATION**

**NORFOLK STATE UNIVERSITY**

**Final Regulation**

**REGISTRAR'S NOTICE:** Norfolk State University is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

**Title of Regulation:** **8VAC60-10. Weapons Regulation (adding 8VAC60-10-10, 8VAC60-10-20, 8VAC60-10-30).**

**Statutory Authority:** § 23.1-1301 of the Code of Virginia.

**Effective Date:** February 8, 2018.

**Agency Contact:** Ericke Cage, Executive Advisor to the President, 700 Park Avenue, Suite 520, Norfolk, VA 23504, telephone (757) 823-8670, FAX (757) 823-2342, or email escage@nsu.edu.

**Summary:**

*The regulation establishes the weapons limitation policy at Norfolk State University.*

**CHAPTER 10  
WEAPONS REGULATION**

**8VAC60-10-10. Definitions.**

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

"Police officer" means law-enforcement officials appointed pursuant to Article 3 (§ 15.2-1609 et seq.) of Chapter 16 and Chapter 17 (§ 15.2-1700 et seq.) of Title 15.2, Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, and Chapter 1 (§ 52-1 et seq.) of Title 52 of the Code of Virginia and sworn federal law-enforcement officers.

"University property" means any property owned, leased, or controlled by Norfolk State University.

"Weapon" means any pistol, revolver, or other weapon designed or intended to propel a missile of any kind; any dirk, bowie knife, switchblade knife, ballistic knife, razor slingshot, spring stick, metal knucks, blackjack, or any

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# Regulations

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flailing instrument consisting of two or more rigid parts connected in such manner as to allow them to swing freely, which may be known as nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; or any disc of whatever configuration, having at least two points or pointed blades, that is designed to be thrown or propelled and that may be known as throwing star or oriental dart.

## **8VAC60-10-20. Possession of weapons prohibited.**

Possession or carrying of any weapon by any person, except a police officer, is prohibited on university property in academic buildings, administrative office buildings, student residence buildings, or dining facilities or while attending sporting, entertainment, or educational events. Entry upon university property, as described in this section, in violation of this prohibition is expressly forbidden.

## **8VAC60-10-30. Person lawfully in charge.**

In addition to individuals authorized by university policy, Norfolk State University police officers are lawfully in charge for the purposes of forbidding entry upon or remaining upon university property while possessing or carrying weapons in violation of this prohibition.

VA.R. Doc. No. R18-5406; Filed February 1, 2018, 3:10 p.m.

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## **TITLE 9. ENVIRONMENT**

### **STATE AIR POLLUTION CONTROL BOARD**

#### **Final Regulation**

**REGISTRAR'S NOTICE:** Pursuant to 1VAC7-10-60, the Registrar of Regulations is updating certain regulations of the State Air Pollution Control Board to correct an invalid street address in the Virginia Administrative Code.

Titles of Regulations: **9VAC5-20. General Provisions (amending 9VAC5-20-21, 9VAC5-20-121).**

**9VAC5-50. New and Modified Stationary Sources (amending 9VAC5-50-405).**

**9VAC5-60. Hazardous Air Pollutant Sources (amending 9VAC5-60-65, 9VAC5-60-95).**

**9VAC5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area (amending 9VAC5-91-50).**

Effective Date: February 19, 2018.

Agency Contact: Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, or email gary.graham@deq.virginia.gov.

#### Summary:

*Pursuant to 1VAC7-10-60, the street address for the central office of the Department of Environmental Quality is changed from 629 East Main Street to 1111 East Main Street, Suite 1400.*

VA.R. Doc. No. R18-5401; Filed January 30, 2018, 11:04 a.m.

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **Final Regulation**

**REGISTRAR'S NOTICE:** Pursuant to 1VAC7-10-60, the Registrar of Regulations is updating certain regulations of the Department of Environmental Quality to correct an invalid street address in the Virginia Administrative Code.

Titles of Regulations: **9VAC15-40. Small Renewable Energy Projects (Wind) Permit by Rule (amending 9VAC15-40-120).**

**9VAC15-60. Small Renewable Energy Projects (Solar) Permit by Rule (amending 9VAC15-60-120).**

**9VAC15-70. Small Renewable Energy Projects (Combustion) Permit by Rule (amending 9VAC15-70-120).**

Effective Date: February 19, 2018.

Agency Contact: Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, or email gary.graham@deq.virginia.gov.

#### Summary:

*Pursuant to 1VAC7-10-60, the street address for the Virginia Coastal Zone Management Program of the Department of Environmental Quality is changed from 629 East Main Street to 1111 East Main Street, Suite 1400.*

VA.R. Doc. No. R18-5405; Filed January 30, 2018, 11:04 a.m.

## **VIRGINIA WASTE MANAGEMENT BOARD**

### **Final Regulation**

**REGISTRAR'S NOTICE:** Pursuant to 1VAC7-10-60, the Registrar of Regulations is updating certain regulations of the Virginia Waste Management Board to correct an invalid street address in the Virginia Administrative Code.

Titles of Regulations: **9VAC20-60. Virginia Hazardous Waste Management Regulations (amending 9VAC20-60-490).**

**9VAC20-170. Transportation of Solid and Medical Wastes on State Waters (amending 9VAC20-170-400:8 (Appendix VIII)).**

Effective Date: February 19, 2018.

**Agency Contact:** Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, or email [gary.graham@deq.virginia.gov](mailto:gary.graham@deq.virginia.gov).

**Summary:**

*Pursuant to IVAC7-10-60, the street address for the Department of Environmental Quality and its director is changed from 629 East Main Street to 1111 East Main Street, Suite 1400.*

VA.R. Doc. No. R18-5404; Filed January 30, 2018, 11:04 a.m.

## 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 a 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, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

**Title of Regulation:** **9VAC20-120. Regulated Medical Waste Management Regulations.**

**Agency Contact:** 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 (9VAC20-120)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement \(Cover Sheet\), DEQ Form DISC-01 \(rev. 4/2011\)-](#)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement - Key Personnel, DEQ Form DISC-02 \(rev. 4/2011\)-](#)

[Request for Certification \(Local Government\), DEQ Form CERT-01 \(rev. 7/11\)-](#)

[Request for Certification \(Local Government\), DEQ Form CERT-01 \(rev. 10/2017\)](#)

[Petition for Evaluation and Approval of Regulated Medical Waste Treatment Technology, DEQ Form RMWTP-01 \(rev. 7/2011\)-](#)

VA.R. Doc. No. R18-5354; Filed January 22, 2018, 10:24 a.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 a 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, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

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

**9VAC25-115. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.**

**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 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.**

**Agency Contact:** 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. 10/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

[Biosolids Land Application Local Monitoring Expenses Reimbursement Invoice, Form 1 \(rev. 6/2013\)](#)

[Biosolids Land Application Local Monitoring Expenses Multiple Owners Payment Assignment, Form 2 \(rev. 6/2013\)](#)

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# Regulations

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Biosolids Land Application Fee Reimbursement Notice of Intent to Seek Reconsideration, Form 3 (rev. 8/2007)

Biosolids Land Application Fee Reimbursement Reconsideration Claim Form, Form 4 (rev. 8/2007)

FORMS (9VAC25-115)

Change of Ownership Agreement Form (rev. 3/2014)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

Registration Statement for the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities, July 2016 reissuance (rev. 4/2016)

FORMS (9VAC25-151)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

VPDES General Permit for Industrial Activity Stormwater Discharges (VAR05) Registration Statement, SWGP VAR05-RS (eff. 7/2014)

VPDES General Permit for Industrial Activity Stormwater Discharges (VAR05) Notice of Termination, SWGP VAR05-NOT (eff. 7/2014)

Virginia Pollutant Discharge Elimination System (VPDES) Discharge Monitoring Report (DMR) (eff. 7/2014)

Virginia Pollutant Discharge Elimination System Change of Ownership Form (undated)

FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

Change of Ownership Agreement Form (rev. 3/2014)

VPDES General Permit for Nonmetallic Mineral Mining (VAG84) - Notice of Termination (eff. 7/2014)

VPDES General Permit Registration Statement - Nonmetallic Mineral Mining (rev. 2014)

FORMS (9VAC25-193)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/14)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

Registration Statement for the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities, VAG11 (rev. 4/2013)

FORMS (9VAC25-210)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Tidewater Joint Permit Application for Projects Involving Tidal Waters, Tidal Wetlands and/or Dunes and Beaches in Virginia (rev. 5/2017)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

FORMS (9VAC25-610)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division Permit Application Fee Form \(rev. 10/2017\)](#)

Application Instructions for Completing a Groundwater Withdrawal Permit Application (rev. 11/2013)

Application for a Groundwater Withdrawal Permit (rev. 9/2012)

Groundwater Withdrawal Permit - Change of Ownership Agreement Form (rev. 11/2013)

Uncontested Termination Agreement (rev. 11/2013)

Uniform Water Well Completion Report, Form GW-2 (rev. 8/2016)

Uniform Water Well Completion Report Well Abandonment Form, GW-5 (rev. 8/2016)

Public Notice Authorization Form - Authorization for Public Notice Billing to Groundwater Withdrawal Permit Applicant (rev. 11/2013)

Preapplication Meeting - Application for a Groundwater Withdrawal Permit (rev. 9/2012)

Local and Areawide Planning Requirements (rev. 9/2012)

Quarterly Groundwater Withdrawal Report (rev. 11/2013)

Mitigation Plan (rev. 11/2013)

Existing Users Groundwater Withdrawal Permit Application and Instructions (eff. 2/2014)

## FORMS (9VAC25-660)

~~Department of Environmental Quality Water Division  
Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division  
Permit Application Fee Form \(rev. 10/2017\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

## FORMS (9VAC25-670)

~~Department of Environmental Quality Water Division  
Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division  
Permit Application Fee Form \(rev. 10/2017\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

## FORMS (9VAC25-680)

~~Department of Environmental Quality Water Division  
Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division  
Permit Application Fee Form \(rev. 10/2017\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

## FORMS (9VAC25-690)

~~Department of Environmental Quality Water Division  
Permit Application Fee Form (rev. 10/2014)~~

[Department of Environmental Quality Water Division  
Permit Application Fee Form \(rev. 10/2017\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of the Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

VA.R. Doc. No. R18-5337; Filed January 22, 2018, 9:56 a.m.

## Final Regulation

**REGISTRAR'S NOTICE:** Pursuant to 1VAC7-10-60, the Registrar of Regulations is updating certain regulations of the State Water Control Board to correct an invalid street address and Post Office box number in the Virginia Administrative Code.

Titles of Regulations: **9VAC25-91. Facility and Aboveground Storage Tank (AST) Regulation (amending 9VAC25-91-70, 9VAC25-91-160).**

**9VAC25-101. Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation (amending 9VAC25-101-40, 9VAC25-101-50).**

**9VAC25-590. Petroleum Underground Storage Tank Financial Responsibility Requirements (amending 9VAC25-590-220).**

**9VAC25-640. Aboveground Storage Tank and Pipeline Facility Financial Responsibility Requirements (amending 9VAC25-640-230).**

**9VAC25-650. Closure Plans and Demonstration of Financial Capability (amending 9VAC25-650-100, 9VAC25-650-110, 9VAC25-650-200).**

**9VAC25-770. Virginia Financial Responsibility Requirements for Mitigation Associated with Tidal Dredging Projects (amending 9VAC25-770-190).**

Effective Date: February 19, 2018.

Agency Contact: Gary Graham, Regulatory Analyst, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, or email gary.graham@deq.virginia.gov.

### Summary:

*Pursuant to 1VAC7-10-60, the street address for the Department of Environmental Quality (DEQ) is changed to 1111 East Main Street, Suite 1400 for the Office of Spill Response and Remediation, the Office of Financial Management, and the Director of the DEQ. In addition, the Post Office box number for the director is changed to P.O. Box 1105, and the zip code is changed to 23218.*

VA.R. Doc. No. R18-5403; Filed January 30, 2018, 11:04 a.m.

## Notice of Effective Date

Title of Regulation: **9VAC25-260. Water Quality Standards (amending 9VAC25-260-460).**

Statutory Authority: § 62.1-44.15 of the Code of Virginia; Clean Water Act (33 USC § 1251 et seq.); 40 CFR Part 131.

Effective Date: January 24, 2018.

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# Regulations

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On January 14, 2016, the State Water Control Board adopted revisions to the Water Quality Standards in 9VAC25-260-5, 9VAC25-260-50, 9VAC25-260-140, 9VAC25-260-155, 9VAC25-260-185, 9VAC25-260-187, 9VAC25-260-310, 9VAC25-260-390, 9VAC25-260-400, 9VAC25-260-410, 9VAC25-260-415, 9VAC25-260-440, 9VAC25-260-450, 9VAC25-260-460, 9VAC25-260-470, 9VAC25-260-510, 9VAC25-260-520, 9VAC25-260-530, and 9VAC25-260-540. The revisions related to water quality criteria, use designations, antidegradation, and other policies related to water quality. The amendments were published in final form on August 22, 2016, Volume 32, Issue 26 (32:26 V.A.R. 3461-3542 August 22, 2016) of the Virginia Register to be effective upon filing notice of U.S. Environmental Protection Agency (EPA) approval with the Registrar of Regulations. The State Water Control Board received approval from the EPA by letter dated June 5, 2017, of all the amendments except for the amendment to 9VAC25-260-460, which removed a natural trout waters designation from Lovills Creek Lake. Notice of the effective date of the amendments, except for the amendment to 9VAC25-260-460, appeared in the Virginia Register of Regulations on July 24, 2017, in Volume 33, Issue 24 (33:24 V.A.R. 2671-2672 July 24, 2017).

The State Water Control Board has since received a letter from EPA, dated December 22, 2017, approving the amendment in 9VAC25-260-460. The amendment changes the natural trout water segment of Lovills Creek in Section 1 of the Yadkin River basin to read as follows "Lovills Creek and its tributaries from the headwaters of the impoundment formed by the Natural Resource Conservation Service dam to their headwaters."

Copies are available online at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs>; by calling toll free at 1-800-592-5482 ext. 4121 or local at 804-698-4121 or by written request or email request to the agency contact.

Agency Contact: David Whitehurst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4121, FAX (804) 698-4032, TTY (804) 698-4021, or email [david.whitehurst@deq.virginia.gov](mailto:david.whitehurst@deq.virginia.gov).

V.A.R. Doc. No. R13-3788; Filed January 24, 2018, 11:05 a.m.

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## TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

### STATE CORPORATION COMMISSION

#### Final Regulation

**REGISTRAR'S NOTICE:** The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which

exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **20VAC5-315. Regulations Governing Net Energy Metering (amending 20VAC5-315-10 through 20VAC5-315-40; adding 20VAC5-315-75).**

Statutory Authority: §§ 12.1-13 and 56-594 of the Code of Virginia.

Effective Date: February 1, 2018.

Agency Contact: Tommy Oliver, Deputy Director, Division of Utility Accounting and Finance, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9358, FAX (804) 371-9350, or email [tommy.oliver@scc.virginia.gov](mailto:tommy.oliver@scc.virginia.gov).

Summary:

*Pursuant to Chapters 565 and 581 of the 2017 Acts of Assembly, the amendments add a definition of small agricultural generators, provide for the interconnection of such generators, and provide that as of July 1, 2019, interconnection of agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. Changes since the proposed stage include amendments to clarify that (i) requirements related to electric distribution company notification include small agricultural generators, (ii) small agricultural generators should be included with net metered generators in determining whether an electric distribution company has reached the cap on participation set forth in the Code of Virginia, and (iii) a small agricultural generator's supplier shall be obligated to purchase all of the electricity generated by such generator.*

AT RICHMOND, JANUARY 22, 2018

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUR-2017-00099

Ex Parte: In the matter of amending regulations governing net energy metering

#### ORDER ADOPTING REGULATIONS

The Regulations Governing Net Energy Metering, 20VAC5-315-10 et seq. ("Existing Rules"), adopted by the State Corporation Commission ("Commission") pursuant to § 56-594 of the Virginia Electric Utility Regulation Act, Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia ("Code"), establish the requirements for participation by an eligible customer-generator in net energy metering in the Commonwealth of Virginia. The Existing Rules include conditions for interconnection and metering, billing, and

contract requirements between net metering customers, electric distribution companies, and energy service providers.

On August 25, 2017, the Commission entered an Order Establishing Proceeding ("Order") to consider revisions to the Existing Rules to reflect statutory changes enacted by Chapters 565 and 581 of the 2017 Acts of Assembly ("Chapters 565 and 581"), which amended § 56-594 of the Code by adding a new § 56-594.2 to add a definition of "small agricultural generator" and to provide for the interconnection of such generator to utilities. In addition, Chapters 565 and 581 provided that on and after July 1, 2019, interconnection of eligible agricultural customer-generators under § 56-594 shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators under § 56-594.2.

The Commission appended to its Order proposed amendments ("Proposed Rules") revising the Existing Rules, which were prepared by the Staff of the Commission to reflect the revisions mandated by Chapters 565 and 581.

Notice of the proceeding and the Proposed Rules were published in the Virginia Register of Regulations on September 18, 2017. Additionally, each Virginia electric distribution company was directed to serve a copy of the Order upon each of their respective net metering customers. Interested persons were directed to file any comments and requests for hearing on the Proposed Rules on or before October 31, 2017.

Appalachian Power Company ("APCo"), Virginia Electric and Power Company d/b/a Dominion Energy Virginia ("DEV"), the Virginia Electric Cooperatives,<sup>1</sup> and James D. Boggs filed comments. No one requested a hearing on the Proposed Rules.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that the regulations attached hereto as Appendix A ("Revised Rules") should be adopted as final rules.

DEV and APCo suggest that 20VAC5-315-30 be amended to clarify that requirements related to electric distribution company notification include small agricultural generators. We agree, and the Revised Rules reflect these modifications.

DEV and APCo suggest similar changes to 20VAC5-315-75. Specifically, the utilities note that the first sentence of the Proposed Rules references a power purchase agreement in which the small agricultural generator sells "all of the electricity generated," while the second sentence references the customer's supplier being obligated by the same power purchase agreement to "purchase the excess generation." We agree that this apparent inconsistency should be resolved and have changed the Revised Rules accordingly.

Finally, APCo suggests that 20VAC5-315-40(B) be revised to clarify that small agricultural generators should be included

with net metered generators in determining whether "the total rated generating alternating current capacity of all interconnected net metered generators within ... [an] electric distribution company's Virginia service territory [exceeds] 1.0% of that company's Virginia peak-load forecast for the previous year," as provided in the Existing Rules. We agree and have modified the Revised Rules to reflect this change.

Accordingly, IT IS ORDERED THAT:

(1) The Regulations Governing Net Energy Metering, as shown in Appendix A to this Order, hereby are adopted and are effective as of February 1, 2018.

(2) A copy of this Order with Appendix A including the Regulations Governing Net Energy Metering shall be forwarded to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(3) On or before May 1, 2018, each utility in the Commonwealth subject to Chapter 10 (§ 56-232 et seq.) of Title 56 of the Code of Virginia shall file with the Clerk of the Commission, in this docket, one (1) original document containing any revised tariff provisions necessary to implement the regulations adopted herein, and each such utility also shall file a copy of the document containing the revised tariff provisions with the Commission's Division of Public Utility Regulation. The Clerk of the Commission need not distribute copies but shall make such filings available for public inspection in the Clerk's Office and post them on the Commission's website at: <http://www.scc.virginia.gov/case>.

(4) This docket shall remain open to receive the filings from electric utilities pursuant to Ordering Paragraph (3).

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219. A copy also shall be sent to the Commission's Office of General Counsel and Division of Public Utility Regulation and Utility Accounting and Finance.

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<sup>1</sup>The filing entitled "Comments of the Virginia Electric Cooperatives" was submitted jointly on behalf of: A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Powell Valley Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative, as well as the Virginia, Maryland & Delaware Association of Electric Cooperatives.

### **20VAC5-315-10. Applicability and scope.**

These regulations are promulgated pursuant to the provisions of §§ 56-594 and 56-594.2 of the Virginia Electric Utility Regulation Act (§ 56-576 et seq. of the Code of Virginia). They establish requirements intended to facilitate

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# Regulations

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net energy metering for customers owning and operating, or contracting with persons to own or operate, or both, electrical generators that use specific types of renewable energy as the total fuel source. These regulations will standardize the interconnection requirements for such facilities and will govern the metering, billing, payment and contract requirements between net metering customers, electric distribution companies and energy service providers. Agricultural net metering customers are subject to the same provisions as nonagricultural net metering customers unless otherwise specified. On or after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for member-owned electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For member-owned electric cooperatives, agricultural net metering customers whose agricultural renewable fuel generators were interconnected before July 1, 2019, may continue to participate in net energy metering for a period not to exceed 25 years from the date of their agricultural renewable fuel generator's original interconnection.

~~The amendments regarding agricultural net metering apply to customers of investor-owned electric utilities on July 1, 2014, and apply to customers of electric cooperatives on July 1, 2015, as provided in the State Corporation Commission's Order Adopting Regulations, Case No. PUE 2014 00003, dated June 23, 2014, and published in the Virginia Register of Regulations, Volume 30, Issue 23, July 14, 2014.~~

These regulations also establish requirements for the interconnection of small agricultural generators. Small agricultural generators or agricultural renewable fuel generators may elect to interconnect as a net metering customer or as small agricultural generators pursuant to 20VAC5-315-75, but not both. Existing eligible agricultural renewable fuel generators may elect to become small agricultural generators, but may not revert to being an agricultural renewable fuel generator after such election.

## **20VAC5-315-20. Definitions.**

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

"Agricultural business" means any sole proprietorship, corporation, partnership, electing small business (Subchapter S) corporation, or limited liability company engaged primarily in the production and sale of plants and animals, products collected from plants and animals, or plant and animal services that are useful to the public.

"Agricultural net metering customer" means a customer that operates an electrical generating facility consisting of one or more agricultural renewable fuel generators having an aggregate generation capacity of not more than 500 kilowatts as part of an agricultural business under a net metering service arrangement. An agricultural net metering customer

may be served by multiple meters of one utility that are located at separate but contiguous sites and that may be aggregated into one account. This account shall be served under the appropriate tariff.

"Agricultural renewable fuel generator" or "agricultural renewable fuel generating facility" means one or more electrical generators that:

1. Use as their sole energy source solar power, wind power, or aerobic or anaerobic digester gas;
2. The agricultural net metering customer owns and operates, or has contracted with other persons to own or operate, or both;
3. Are located on land owned or controlled by the agricultural business;
4. Are connected to the agricultural net metering customer's wiring on the agricultural net metering customer's side of the agricultural net metering customer's interconnection with the distributor;
5. Are interconnected and operated in parallel with an electric company's distribution facilities; and
6. Are used primarily to provide energy to metered accounts of the agricultural business.

"Billing period" means, as to a particular agricultural net metering customer or a net metering customer, the time period between the two meter readings upon which the electric distribution company and the energy service provider calculate the agricultural net metering customer's or net metering customer's bills.

"Billing period credit" means, for a nontime-of-use agricultural net metering customer or a nontime-of-use net metering customer, the quantity of electricity generated and fed back into the electric grid by the agricultural net metering customer's agricultural renewable fuel generator or generators or by the net metering customer's renewable fuel generator or generators in excess of the electricity supplied to the customer over the billing period. For time-of-use agricultural net metering customers or time-of-use net metering customers, billing period credits are determined separately for each time-of-use tier.

"Contiguous sites" means a group of land parcels in which each parcel shares at least one boundary point with at least one other parcel in the group. Property whose surface is divided only by public right-of-way is considered contiguous.

"Customer" means a net metering customer or an agricultural net metering customer.

"Demand charge-based time-of-use tariff" means a retail tariff for electric supply service that has two or more time-of-use tiers for energy-based charges and an electricity supply demand (kilowatt) charge.



"Electric distribution company" means the entity that owns ~~and/or~~ or operates the distribution facilities delivering electricity to the premises of an agricultural net metering customer or a net metering customer.

"Energy service provider (supplier)" means the entity providing electricity supply service, either tariffed or competitive service, to an agricultural net metering customer or a net metering customer.

"Excess generation" means the amount of electrical energy generated in excess of the electrical energy consumed by the agricultural net metering customer or net metering customer over the course of the net metering period. For time-of-use agricultural net metering customers or net metering customers, excess generation is determined separately for each time-of-use tier.

"Generator" or "generating facility" means an electrical generating facility consisting of one or more renewable fuel generators or one or more agricultural renewable fuel generators that meet the criteria under the definition of "net metering customer" and "agricultural net metering customer," respectively.

"Net metering customer" means a customer owning and operating, or contracting with other persons to own or operate, or both, an electrical generating facility consisting of one or more renewable fuel generators having an aggregate generation capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers. The generating facility shall be operated under a net metering service arrangement.

"Net metering period" means each successive 12-month period beginning with the first meter reading date following the final interconnection of an agricultural net metering customer or a net metering customer's generating facility consisting of one or more agricultural renewable fuel generators or one or more renewable fuel generators, respectively, with the electric distribution company's distribution facilities.

"Net metering service" means providing retail electric service to an agricultural net metering customer operating an agricultural renewable fuel generating facility or a net metering customer operating a renewable fuel generating facility and measuring the difference, over the net metering period, between the electricity supplied to the customer from the electric grid and the electricity generated and fed back to the electric grid by the customer.

"Person" means any individual, sole proprietorship, corporation, limited liability company, partnership, association, company, business, trust, joint venture, or other private legal entity, the Commonwealth, or any city, county, town, authority, or other political subdivision of the Commonwealth.

"Renewable Energy Certificate" or "REC" represents the renewable energy attributes associated with the production of one megawatt-hour (MWh) of electrical energy by a generator.

"Renewable fuel generator" or "renewable fuel generating facility" means one or more electrical generators that:

1. Use renewable energy, as defined by § 56-576 of the Code of Virginia, as their total fuel source;
2. The net metering customer owns and operates, or has contracted with other persons to own or operate, or both;
3. Are located on the net metering customer's premises and connected to the net metering customer's wiring on the net metering customer's side of its interconnection with the distributor;
4. Are interconnected pursuant to a net metering arrangement and operated in parallel with the electric distribution company's distribution facilities; and
5. Are intended primarily to offset all or part of the net metering customer's own electricity requirements. The capacity of any generating facility installed on or after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity of not more than 1.5 megawatts and does not exceed 150% of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;
2. Uses as its total source of fuel renewable energy;
3. Is located on the customer's premises and is interconnected with the utility's distribution system through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution system but not transmission facilities;
5. Is designed so that the electricity generated is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594 of the Code of Virginia;

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2. Operates a small agricultural generating facility as part of an agricultural business;

3. May be served by multiple meters that are located at separate but contiguous sites;

4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150% of the customer's expected annual energy consumption but not for billing or retail service purposes, provided that the same utility serves all of its meters;

5. Uses not more than 25% of the contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and

6. Provides the electric utility with a certification, attested under oath, as to the amount of land being used for renewable generation.

"Time-of-use customer" means an agricultural net metering customer or net metering customer receiving retail electricity supply service under a demand charge-based time-of-use tariff.

"Time-of-use period" means an interval of time over which the energy (kilowatt-hour) rate charged to a time-of-use customer does not change.

"Time-of-use tier" or "tier" means all time-of-use periods given the same name (e.g., on-peak, off-peak, critical peak, etc.) for the purpose of time-differentiating energy (kilowatt-hour)-based charges. The rates associated with a particular tier may vary by day and by season.

## **20VAC5-315-30. Company notification.**

A. A prospective agricultural net metering customer [ ~~or~~ ] a prospective net metering customer [ , or a prospective small agricultural generator ] (hereinafter referred to as "customer") shall submit a completed commission-approved notification form to the electric distribution company and, if different from the electric distribution company, to the energy service provider, according to the time limits in this subsection. If the prospective customer has contracted with another person to own or operate, or both, the generator or generators, then the notice will include detailed, current, and accurate contract information for the owner or operator, or both, including without limitation, the name and title of one or more individuals responsible for the interconnection and operation of the generator or generators, a telephone number, a physical street address other than a post office box, a fax number, and an email address for each such person.

1. A residential customer shall notify its supplier and receive approval to interconnect prior to installation or adding capacity to an electrical generating facility. The electric distribution company shall have 30 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have been met. The date of

notification shall be considered to be the third day following the mailing of the notification form by the prospective customer.

2. A nonresidential customer shall notify its supplier and receive approval to interconnect prior to installation or adding capacity to an electrical generating facility. The electric distribution company shall have 60 days from the date of notification to determine whether the requirements contained in 20VAC5-315-40 have been met. The date of notification shall be considered to be the third day following the mailing of the notification form by the prospective customer.

B. Thirty-one days after the date of notification for a residential customer, and 61 days after the date of notification for a nonresidential customer, the prospective customer may interconnect and begin operation of the generating facility unless the electric distribution company or the energy service provider requests a waiver of this requirement under the provisions of 20VAC5-315-80 prior to the 31st or 61st day, respectively. In cases where the electric distribution company or energy service provider requests a waiver, a copy of the request for waiver must be mailed simultaneously by the requesting party to the prospective customer and to the commission's Division of ~~Energy~~ Public Utility Regulation.

C. The electric distribution company shall file with the commission's Division of ~~Energy~~ Public Utility Regulation a copy of each completed notification form within 30 days of final interconnection.

## **20VAC5-315-40. Conditions of interconnection.**

A. A prospective customer may begin operation of the generating facility on an interconnected basis when:

1. The customer has properly notified both the electric distribution company and energy service provider (in accordance with 20VAC5-315-30) of the customer's intent to interconnect.

2. If required by the electric distribution company's tariff, the customer has installed a lockable, electric distribution company accessible, load breaking manual disconnect switch at each of the facility's generators.

3. The licensed electrician who installs the customer's generator or generators certifies, by signing the commission-approved notification form, that any required manual disconnect switch or switches are being installed properly and that the generator or generators have been installed in accordance with the manufacturer's specifications as well as all applicable provisions of the National Electrical Code. If the customer or licensed Virginia Class A or B general contractor installs the customer's generator or generators, the signed final electrical inspection can be used in lieu of the licensed electrician's certification.

4. The vendor certifies, by signing the commission-approved notification form, that the generator or generators being installed are in compliance with the requirements established by Underwriters Laboratories or other national testing laboratories in accordance with IEEE Standard 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003.

5. In the case of static inverter-connected generators with an alternating current capacity in excess of 10 kilowatts, the customer has had the inverter settings inspected by the electric distribution company. The electric distribution company may impose a fee on the customer of no more than \$50 for each generator that requires this inspection.

6. In the case of nonstatic inverter-connected generators, the customer has interconnected according to the electric distribution company's interconnection guidelines and the electric distribution company has inspected all protective equipment settings. The electric distribution company may impose a fee on the customer of no more than \$50 for each generator that requires this inspection.

7. The following requirements shall be met before interconnection may occur:

a. Electric distribution facilities and customer impact limitations. A customer's generator shall not be permitted to interconnect to distribution facilities if the interconnection would reasonably lead to damage to any of the electric distribution company's facilities or would reasonably lead to voltage regulation or power quality problems at other customer revenue meters due to the incremental effect of the generator on the performance of the electric distribution system, unless the customer reimburses the electric distribution company for its cost to accommodate the interconnection, including the reasonable cost of equipment required for the interconnection.

b. Secondary, service, and service entrance limitations. The capacity of the generators at any one service location shall be less than the capacity of the electric distribution company-owned secondary, service, and service entrance cable connected to the point of interconnection, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

c. Transformer loading limitations. A customer's generator shall not have the ability to overload the electric distribution company's transformer, or any transformer winding, beyond manufacturer or nameplate ratings, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

d. Integration with electric distribution company facilities grounding. The grounding scheme of each generator shall

comply with IEEE 1547, Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, and shall be consistent with the grounding scheme used by the electric distribution company. If requested by a prospective customer, the electric distribution company shall assist the prospective customer in selecting a grounding scheme that coordinates with its distribution system.

e. Balance limitation. The generator or generators shall not create a voltage imbalance of more than 3.0% at any other customer's revenue meter if the electric distribution company transformer, with the secondary connected to the point of interconnection, is a three-phase transformer, unless the customer reimburses the electric distribution company for the reasonable cost of equipment required for the interconnection.

B. A prospective customer [ or small agricultural generator ] shall not be allowed to interconnect a generator if doing so will cause the total rated generating alternating current capacity of all interconnected net metered generators, as defined in 20VAC5-315-20, within that customer's electric distribution company's Virginia service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year. In any case where a prospective customer has submitted a notification form required by 20VAC5-315-30 and that customer's interconnection would cause the total rated generating alternating current capacity of all interconnected net metered generators, as defined in 20VAC5-315-20, within that electric distribution company's service territory to exceed 1.0% of that company's Virginia peak-load forecast for the previous year, the electric distribution company shall, at the time it becomes aware of the fact, send written notification to the prospective customer and to the commission's Division of Energy Public Utility Regulation that the interconnection is not allowed. In addition, upon request from any customer, the electric distribution company shall provide to the customer the amount of capacity still available for interconnection pursuant to § 56-594 D of the Code of Virginia.

C. Neither the electric distribution company nor the energy service provider shall impose any charges upon a customer for any interconnection requirements specified by this chapter, except as provided under subdivisions A 5, A 6, and A 7 of this section, 20VAC5-315-50, and 20VAC5-315-70 as related to additional metering.

D. A customer shall immediately notify the electric distribution company of any changes in the ownership of, operational responsibility for, or contact information for any of the customer's generators.

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## **20VAC5-315-75. Interconnection of small agricultural generators.**

[ ~~Small~~ A small ] agricultural [ ~~generators~~ generator ] electing to interconnect pursuant to this section shall enter into a power purchase agreement with its supplier to sell all of the electricity generated from its small agricultural generating facility. The customer's supplier shall be obligated by the power purchase agreement to purchase the [ ~~excess generation~~ electricity generated ] at a price equal to a rate agreed upon by the parties that is not less than the utility's commission-approved avoided cost tariff for energy and capacity.

Small agricultural generators with renewable energy certificates or other environmental attributes generated by the small agricultural generating facility shall have the rights described in 20VAC5-315-50.

Small agricultural generators shall abide by the small generator interconnection process described in 20VAC5-314. Such customer shall be responsible for all costs associated with any interconnection or engineering studies that may be required prior to interconnection.

### DOCUMENTS INCORPORATED BY REFERENCE

1547, IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems, July 2003, The Institute of Electrical and Electronics Engineers, Inc.

~~Rider G, Renewable Energy Program, Virginia Electric and Power Company, January 1, 2009.~~

[Rider G, Renewable Energy Program, Virginia Electric and Power Company, January 1, 2012](#)

VA.R. Doc. No. R18-5222; Filed January 22, 2018, 8:04 p.m.

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# GENERAL NOTICES/ERRATA

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## DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

### Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Agriculture and Consumer Services is currently reviewing each of the regulations listed below to determine whether it should be repealed, amended, or retained in its current form. The review of each regulation will be guided by the principles in Executive Order 17 (2014). Each regulation will be reviewed to determine whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

#### **2VAC5-210, Rules and Regulations Pertaining to Meat and Poultry Inspection under the Virginia Meat and Poultry Products Inspection Act**

Agency Contact: Barry Jones, Program Manager, Office of Meat and Poultry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4569, FAX (804) 786-1003, or email [barry.jones@vdacs.virginia.gov](mailto:barry.jones@vdacs.virginia.gov).

#### **2VAC5-410, Rules and Regulations for the Enforcement of the Virginia Agricultural Liming Materials Law**

Agency Contact: Debra Martin, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515, FAX (804) 371-7793, or email [debra.martin@vdacs.virginia.gov](mailto:debra.martin@vdacs.virginia.gov).

#### **2VAC5-690, Regulations for Pesticide Containers and Containment under Authority of the Virginia Pesticide Control Act**

Agency Contact: Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6559, FAX (804) 371-2283, or email [liza.fleeson@vdacs.virginia.gov](mailto:liza.fleeson@vdacs.virginia.gov).

The comment period begins February 19, 2018, and ends March 12, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to the agency contacts listed above.

Comments must include the commenter's name and address (physical or email) information in order to receive a response

to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

## DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

### Proposed Variance to Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115)

Notice of action: The Department of Behavioral Health and Developmental Services (DBHDS), in accordance with Part VI, Variances (12VAC35-115-220), of the Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services (12VAC35-115), hereafter referred to as the "Human Rights Regulations," is announcing an opportunity for public comment on the application for a proposed variance to the Human Rights Regulations. The purpose of the regulations is to ensure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed, or funded by DBHDS.

Each variance application must reference the specific part of the regulations to which a variance is needed, the proposed wording of the substitute rule or procedure, and the justification for a variance. Such application must also describe time limits and other conditions for duration and the circumstances that will end the applicability of the variance. After considering all available information including comments, DBHDS intends to submit a written decision deferring, disapproving, modifying, or approving each variance application. All variances shall be approved for a specific time period. The decision and reasons for variance will be published in a later issue of the Virginia Register.

Purpose of notice: DBHDS is seeking comment on the application for the following proposed variance to the Human Rights Regulations at one private provider.

#### Variance to Procedures for Restrictions on Freedoms of Everyday Life:

12VAC35-115-100 A 1 a: Newport News Behavioral Health Center is requesting a variance to this provision in order to utilize a point level system (Behavior Management Model) affecting movement of an individual within the service setting, grounds, and community. It would require an individual to earn points through a level system.

Variances to the Human Rights Regulations by providers are reviewed by the State Human Rights Committee (SHRC) at

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## General Notices/Errata

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least annually, with reports to the SHRC regarding the variances as requested. This proposed variance is expected to be considered by the SHRC at its meeting on April 20, 2018, at the Piedmont Geriatric Hospital in Burkeville, Virginia. The request is that the variance be granted for a three-year period, with annual updates to the SHRC and quarterly review by the local human rights committee.

Public comment period: February 19, 2018, through March 21, 2018.

How to comment: DBHDS 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 DBHDS by the last day of the comment period. All information received is part of the public record.

To review a proposal: Variance applications and any supporting documentation may be obtained by contacting the DBHDS representative named below.

Contact Information: Deborah Lochart, Director, Office of Human Rights, Department of Behavioral Health and Developmental Services, 1220 East Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-0032, FAX (804) 371-2308, or email [deb.lochart@dbhds.virginia.gov](mailto:deb.lochart@dbhds.virginia.gov).

### DEPARTMENT OF HEALTH

#### Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 17 (2014) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Health is conducting a periodic review and small business impact review of **12VAC5-191, State Plan for the Children with Special Health Care Needs Program**. The review of this regulation will be guided by the principles in Executive Order 17 (2014).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

The comment period begins February 19, 2018, and ends March 12, 2018.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Marcus Allen, Children and Youth with

Special Health Care Needs Program Manager, 109 Governor Street, Richmond, VA 23221, telephone (804) 864-7716, FAX (804) 864-7771, or email [marcus.allen@vdh.virginia.gov](mailto:marcus.allen@vdh.virginia.gov).

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

### VIRGINIA LOTTERY

#### Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on January 30, 2018. The orders may be viewed at the Virginia Lottery, 600 East Main Street, Richmond, Virginia, or at the office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia.

#### Director's Order Number Five (18)

Virginia Lottery's "Hoops" Promotion Final Rules for Operation (effective January 22, 2018)

#### Director's Order Number Seven (18)

Virginia Lottery "7-Eleven Mass Market Battle Madness" (effective April 1, 2018)

#### Director's Order Number Eight (18)

Virginia Lottery "Wawa Sports Partnership" Retailer Promotion (effective April 1, 2018)

#### Director's Order Number Nine (18)

Certain Virginia Scratch 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 January 12, 2018:

Game 1846	Merry Multiplier
Game 1843	Peppermint Double Match
Game 1842	Holiday Dreams
Game 1806	Spooky Cash (TOP)
Game 1792	Double Doubler
Game 1791	Pick 3
Game 1778	Corvette (TOP)
Game 1765	Virginia's \$250,000 Double Play (TOP)
Game 1761	Blackjack

Game 1759	Big Money Super Tickets
Game 1751	\$1,000 Mayhem
Game 1749	\$500 Mayhem
Game 1747	\$100 Mayhem (TOP)
Game 1745	\$50 Mayhem
Game 1743	\$40,000 Taxes Paid
Game 1729	Diamond Dig
Game 1718	Win It All Doublor
Game 1677	Gold Coin Crossword
Game 1612	50X The Money (TOP)

The last day for lottery retailers to return for credit unsold tickets from any of these games will be February 27, 2018. The last day to redeem winning tickets for any of these games will be July 11, 2018, 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 July 11, 2018, 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, 600 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, 600 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on January 8, 2018, and shall remain in full force and effect unless amended or rescinded by further Director's Order.

Director's Order Number Ten (18)

Certain Virginia Promotion; Availability Correction - Debit Lunch Bag Retailer Incentive Promotion (164 2017) The correction amends the order due to an unexpected delay in the availability of the debit card payment option at Lottery vending machines. This Director's Order is effective nunc pro tunc to January 1, 2018, and shall remain in full force and effect unless amended or rescinded by further Director's Order.

Director's Order Number Nineteen (18)

Virginia Lottery's Super Crossword Promotion Final Rules for Operation (effective February 6, 2018)

**BOARD OF MEDICAL ASSISTANCE SERVICES  
Commonwealth Coordinated Care Plus Waiver  
(Appendix F) Draft for Stakeholder Input**

Comment period: January 24, 2018, to February 23, 2018.

The draft version of Appendix F of the CCC Plus Waiver (formerly the Elderly or Disabled with Consumer Direction (EDCD) and Technology Assisted Waivers) Provider Manual is posted on the Department of Medical Assistance Services website at [http://www.dmas.virginia.gov/Content\\_pgs/pd-pmnl.aspx](http://www.dmas.virginia.gov/Content_pgs/pd-pmnl.aspx) for public comment through February 23, 2018. Please note that the CCC Plus Waiver Appendix F is a complete revision of the EDCD Appendix F manual. Please see the overview below for more details.

Overview of Changes: The purpose of this update is to notify providers of procedural changes for annual level of care reviews (LOCERI), effective March 1, 2018. These changes will improve efficiencies in the annual level of care (LOC) notifications, submissions, and tracking.

Appendix F of the CCC Plus Waiver Provider Manual will be finalized and officially posted by March 1, 2018 at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManuals>.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email [emily.mcclellan@dmas.virginia.gov](mailto:emily.mcclellan@dmas.virginia.gov).

**BOARD OF PHARMACY**

**Scheduling of Chemicals in Schedule I of the Drug Control Act**

Comment period: January 17, 2018, to March 29, 2018.

Pursuant to § 54.1-3443 D 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 9:05 a.m. on March 29, 2018, at the Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, VA 23233. Public comment may also be submitted electronically or in writing prior to December 1, 2017, to Caroline Juran, Executive Director of the Board of Pharmacy, to [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

The Virginia Department of Forensic Science (DFS) has identified seven compounds for recommended inclusion into the Code of Virginia.

The following compounds are classified as research chemicals. Compounds of this type have been placed in Schedule I (subdivision 3 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

1. 2-(ethylamino)-2-phenyl-cyclohexanone (other name: deschloro-N-ethyl-ketamine), its optical, position, and geometric isomers, salts, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.
2. 3,4-methylenedioxy-N-tert-butylcathinone, its optical, position, and geometric isomers, salts, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.
3. 4-fluoro-N-ethylamphetamine, its optical, position, and geometric isomers, salts, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.
4. Beta-keto-4-bromo-2,5-dimethoxyphenethylamine (other name: bk-2C-B), its optical, position, and geometric isomers, salts, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The following compounds are powerful synthetic opioids. Compounds of this type have been placed in Schedule I (subdivision 1 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

1. N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-butenamide (other name: Crotonyl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
2. 2-(3,4-dichlorophenyl)-N-[2-(dimethylamino)cyclohexyl]-N-methylacetamide (other name: U-51754), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.
3. N-phenyl-N-[4-phenyl-1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 4-phenylfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472, or email [caroline.juran@dhp.virginia.gov](mailto:caroline.juran@dhp.virginia.gov).

### STATE WATER CONTROL BOARD

#### Proposed Consent Special Order for Commercial Ready Mix Products Inc.

An enforcement action has been proposed for Commercial Ready Mix Products Inc. for violations at its facility in Emporia, Virginia. The State Water Control Board proposes to issue a special order by consent to Commercial Ready Mix Products Inc. to address noncompliance with the State Water Control Law and regulations. 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). Kristen Sadtler will accept comments by email at [kristen.sadtler@deq.virginia.gov](mailto:kristen.sadtler@deq.virginia.gov), FAX at (804) 698-4277, or postal mail at Department of Environmental Quality, Central Office, P.O. Box 1105, Richmond, VA 23218, from February 19, 2018, to March 22, 2018.

#### Proposed Consent Order for Hampton Roads Sanitation District

An amended enforcement action has been proposed for Hampton Roads Sanitation District's (HRSD) acquisition of the Town of Surry's (the Town) Wastewater Treatment Plant located at 11463 Rolfe Highway in Surry, Virginia. The purpose of this amendment is to change the name of the responsible party from the Town to HRSD, to establish a schedule to transfer the Town's discharge, and to reestablish certain interim limits of the consent order issued to the Town on June 25, 2010, and amended October 3, 2013. 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). Frank Lupini will accept comments by email at [frank.lupini@deq.virginia.gov](mailto:frank.lupini@deq.virginia.gov), FAX at (804) 698-4277, or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, from February 19, 2018, to March 22, 2018.

#### Proposed Consent Order for Magnolia Green Subdivision

An enforcement action has been proposed for 6801 Woolridge Road - Moseley LP for the Magnolia Green Subdivision located north of U.S. Route 360 (Hull Street Road) and west of State Route 667 (Otterdale Road) in Chesterfield County, Virginia. The State Water Control Board proposes to issue a consent order to address noncompliance with State Water Control Law and regulations. 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). Frank Lupini will accept comments by email at [frank.lupini@deq.virginia.gov](mailto:frank.lupini@deq.virginia.gov), FAX at (804) 698-4277, or postal mail at Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, from February 19, 2018, to March 22, 2018.



**VIRGINIA CODE COMMISSION**

**Notice to State Agencies**

**Contact Information:** *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *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 <https://commonwealthcalendar.virginia.gov>.

**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/cumulatab.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.

**ERRATA**

**BOARD OF CORRECTIONS**

**Title of Regulation: 6VAC15-81. Standards for Planning, Design, Construction, and Reimbursement of Local Correctional Facilities.**

**Publication:** 34:12 VA.R. 1172-1218 February 5, 2018

**Correction to Final Regulation:**

Page 1174, 6VAC15-81-20, column 2, definition of "Minor renovation project," line 3, after "than" change "\$1" to "\$5"

VA.R. Doc. No. R16-4552; Filed January 24, 2018

**STATE BOARD OF SOCIAL SERVICES**

**Title of Regulation: 22VAC40-665. Child Care Program.**

**Publication:** 34:12 VA.R. 1262-1305 February 5, 2018

**Correction to Proposed Regulation:**

Page 1282, 22VAC40-665-240 L, line 3, after "children" change "less than" to "over"

VA.R. Doc. No. R16-4602; Filed February 8, 2018

