



VIRGINIA

REGISTER OF REGULATIONS

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TABLE OF CONTENTS

Register Information Page	753
Publication Schedule and Deadlines	754
Petitions for Rulemaking	755
Periodic Reviews and Small Business Impact Reviews	756
Notices of Intended Regulatory Action	760
Regulations	762
9VAC20-60. Virginia Hazardous Waste Management Regulations (Final)	762
9VAC20-85. Coal Combustion Byproduct Regulations (Final)	762
16VAC30-80. Regulations Governing Individual Self-Insurance under the Virginia Workers' Compensation Act (Final)....	766
18VAC15-30. Virginia Lead-Based Paint Activities Regulations (Final)	766
18VAC15-40. Home Inspector Licensing Regulations (Final)	766
22VAC30-80. Auxiliary Grants Program (Forms).....	769
Guidance Documents	770
General Notices	772

THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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; Marcus B. Simon, Vice Chair; Ward L. Armstrong; Nicole Cheuk; Joanne Frye; Leslie L. Lilley; Jennifer L. McClellan; Christopher R. Nolen; Don L. Scott, Jr.; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.

Staff of the Virginia Register: Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Regulations Analyst; Rhonda Dyer, Publications Assistant; Terri Edwards, Senior Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

December 2021 through December 2022

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
38:8	November 15, 2021 (Monday)	December 6, 2021
38:9	December 1, 2021	December 20, 2021
38:10	December 13, 2021 (Monday)	January 3, 2022
38:11	December 29, 2021	January 17, 2022
38:12	January 12, 2022	January 31, 2022
38:13	January 26, 2022	February 14, 2022
38:14	February 9, 2022	February 28, 2022
38:15	February 23, 2022	March 14, 2022
38:16	March 9, 2022	March 28, 2022
38:17	March 23, 2022	April 11, 2022
38:18	April 6, 2022	April 25, 2022
38:19	April 20, 2022	May 9, 2022
38:20	May 4, 2022	May 23, 2022
38:21	May 18, 2022	June 6, 2022
38:22	June 1, 2022	June 20, 2022
38:23	June 15, 2022	July 4, 2022
38:24	June 29, 2022	July 18, 2022
38:25	July 13, 2022	August 1, 2022
38:26	July 27, 2022	August 15, 2022
39:1	August 10, 2022	August 29, 2022
39:2	August 24, 2022	September 12, 2022
39:3	September 7, 2022	September 26, 2022
39:4	September 21, 2022	October 10, 2022
39:5	October 5, 2022	October 24, 2022
39:6	October 19, 2022	November 7, 2022
39:7	November 2, 2022	November 21, 2022
39:8	November 14, 2022 (Monday)	December 5, 2022
39:9	November 30, 2022	December 19, 2022

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Initial Agency Notice

Title of Regulation: **18VAC41-70. Esthetics Regulations.**

Statutory Authority: § 54.1-201 of the Code of Virginia.

Name of Petitioner: Christine Werne.

Nature of Petitioner's Request: To amend 18VAC41-70-270 C 4 to allow an esthetics facility to make use of bathroom space that is not exclusive to its clients, as long as the bathroom is geographically close to the facility and the facility takes responsibility for the sanitation and safety requirements of the bathroom.

Agency Plan for Disposition of Request: The petition will be published on November 22, 2021, in the Virginia Register of Regulations for a 30-day public comment period ending December 22, 2021. The board will consider the petition and any comment received at its meeting on January 10, 2022.

Public Comment Deadline: December 22, 2021.

Agency Contact: Stephen Kirschner, Executive Director, Board for Barbers and Cosmetology, 9960 Mayland Drive, Suite 400, Richmond, VA, 23233, telephone (804) 367-8590, or email barbercosmo@dpor.virginia.gov.

VA.R. Doc. No. PFR22-12; Filed November 1, 2021, 5:01 p.m.

BOARD OF VETERINARY MEDICINE

Agency Decision

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

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

Name of Petitioner: James Penrod for the American Association of Veterinary State Boards.

Nature of Petitioner's Request: To amend 18VAC150-20-115 to accept verification of fulfillment of requirements of the Program for the Assessment of Veterinary Education equivalence of the American Association of Veterinary State Boards.

Agency Decision: Request granted.

Statement of Reason for Decision: At its meeting on October 21, 2021, the board concurred with the petitioner's request and adopted proposed changes to its regulations to allow acceptance of the Program for the Assessment of Veterinary Education as evidence of education in veterinary technology. The regulation will be promulgated by a fast-track rulemaking process.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA, 23233, telephone (804) 597-4130, or email leslie.knachel@dhp.virginia.gov.

VA.R. Doc. No. PFR22-02; Filed October 21, 2021, 1:39 p.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 9. ENVIRONMENT

DEPARTMENT OF ENVIRONMENTAL QUALITY

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality (DEQ) conducted a periodic review and a small business impact review of **9VAC15-90, Uniform Environmental Covenants Act Regulation**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated September 10, 2021, to support this decision.

The regulation is clearly written and easily understandable. This regulation contains a framework that defines how activity and use limitations prescribed by an agency pursuant to an environmental response project are to be drafted, recorded, and enforced as a Uniform Environmental Covenants Act (UECA) "environmental covenant." Additionally, the regulation includes a template for the environmental covenant. This promotes consistency between all environmental covenants in Virginia.

The agency is recommending the regulation stay in effect without change. The regulation is beneficial to both the regulated community and DEQ. The regulation details specific requirements for UECA environmental covenants.

The current regulation continues to be needed. Public comment was received from one individual supporting retention of this regulation. The commenter also commented on the fees related to the environmental covenants. The fees in this regulation were established to cover all of DEQ's costs to implement the program. The established fees were developed based on estimated administrative, legal, and tracking costs to conduct this program.

This regulation was adopted in 2011 to implement the Virginia Uniform Environmental Covenants Act, and the content of the regulation continues to be consistent with state law. The regulation is explanatory in nature and does not place any additional regulatory burden on the regulated community including small businesses.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

STATE WATER CONTROL BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and a small business impact review of **9VAC25-151, Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Discharges of Stormwater**

Associated with Industrial Activity, and determined that this regulation should be amended. The department is publishing its report of findings dated September 7, 2021, to support this decision.

The regulation is effective and continues to be needed; however, this general permit is scheduled to expire on June 30, 2024. This regulation will be amended to reissue the general permit, and the agency will consider revisions to the permit as part of the amendment process.

This regulation continues to be needed. The general permit covers point source discharges of stormwater associated with industrial activity from a point source to surface waters or through a municipal or nonmunicipal separate storm sewer system to surface waters. These discharges are considered to be point sources of pollutants and thus are subject to regulation under the VPDES permit program. The permit regulation specifies requirements that protect water quality downstream from the discharge, which is essential to protect the health, safety, or welfare of citizens. If this regulation were repealed, individual permits would be required to conduct these activities.

One public comment was received during the periodic review in support of retaining this general permit. This regulation establishes procedures for obtaining coverage under this general permit, and portions of the regulation may be viewed as complex due to the technical requirements included in the regulation. The regulation does not overlap, duplicate, or conflict with federal or state law or regulation as the State Water Control Board is the delegated authority to regulate point source discharges to surface water. The State Water Control Board last reissued this regulation in 2019. This regulation is evaluated and necessary changes are made to the regulation when the permit is reissued.

The reissuance of the general VPDES permit accomplishes the objectives of applicable law, minimizes the costs to a small business owner, and simplifies the application process. Without the general permit, a small business owner would be required to obtain an individual permit, which would increase the complexity of a permit application and the costs to obtain permit coverage.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and a small business impact review of **9VAC25-370, Policy for the Protection of Water Quality in Virginia's Shellfish Growing Waters**, and determined that this regulation should be retained as is. The department is

Periodic Reviews and Small Business Impact Reviews

publishing its report of findings dated October 20, 2021, to support this decision.

This regulation is a policy of the State Water Control Board relating to the protection of Virginia's shellfish growing waters. The Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and Water Quality Standards (9VAC25-260) are used to implement this policy. This regulation continues to be needed to protect Virginia's shellfish growing waters; thereby protecting public health, safety, and welfare. The regulation is clearly written and easily understandable. It specifically addresses the need for the board to work with other state agencies to obtain information concerning projects that may result in shellfish condemnations, with the overall goal to protect the Commonwealth's shellfish resources.

No public comments were received during the periodic review comment period. This regulation is a general policy statement of the board and is not complex. Other board regulations have been adopted to implement this policy. This regulation was adopted as a policy statement by the State Water Control Board on March 25, 1980, and became effective on June 10, 1980. This regulation is a policy to protect from condemnation of shellfish growing areas and to identify other state agencies to coordinate with concerning projects. This regulation does not place any requirements on small businesses.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (803) 698-4238.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board conducted a periodic review and a small business impact review of **9VAC25-770, Virginia Financial Responsibility Requirements for Mitigation Associated with Tidal Dredging Projects**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated October 6, 2021, to support this decision.

This regulation is necessary to protect the Commonwealth from being financially responsible for completing tidal dredging mitigation projects. The regulation is clearly written and easily understandable. The regulation requires that permittees responsible for dredging activities purchase mitigation bank credits, make an in-lieu fee fund donation, or provide financial assurance that the project will be completed without cost to the Commonwealth or the general public. This regulation implements the requirements found in subsection 5c of § 62.1-44.15 of the Code of Virginia. No public comments were received during the periodic review.

This regulation is not complex. The regulation provides project permittees with multiple options concerning how they are

guaranteeing that the project will be completed without cost to the Commonwealth or the general public. The financial assurance mechanisms included in the regulation are consistent with financial mechanisms included in other regulations. This regulation does not overlap or duplicate federal requirements. If the U.S. Army Corps of Engineers requires demonstration of financial responsibility, then the mechanism and amount approved by the Corps shall be used to meet the required financial assurance requirements.

This regulation was initially adopted as an emergency regulation, and a permanent regulation became effective on August 25, 2004. The financial mechanisms for providing financial assurance continue to be appropriate.

Small businesses have the same flexibility concerning options for providing financial assurance as larger businesses. If a small business is required by the U.S. Army Corps of Engineers to demonstrate financial responsibility, then the mechanism and amount approved by the Corps shall be used to meet the required financial assurance requirements.

Contact Information: Melissa Porterfield, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (803) 698-4238.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-421, Food Regulations**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated June 24, 2021, to support this decision.

The General Assembly has charged the board with the responsibility to adopt, promulgate, and enforce regulations necessary to protect public health and safety as it relates to restaurants. The regulation was reviewed and determined essential to protecting public health.

The regulation helps fulfill the statutory mandate from the General Assembly by ensuring that restaurants that receive a license from the board meet minimum requirements to include (i) a procedure for obtaining a license; (ii) the safe and sanitary maintenance, storage, operation, and use of equipment; (iii) the sanitary maintenance and use of a restaurant's physical plant; (iv) the safe preparation, handling, protection, and preservation of food, including necessary refrigeration or heating methods; (v) procedures for vector and pest control; (vi) requirements for toilet and cleansing facilities for employees and customers;

Periodic Reviews and Small Business Impact Reviews

(vii) requirements for appropriate lighting and ventilation not otherwise provided for in the Uniform Statewide Building Code; (viii) requirements for an approved water supply and sewage disposal system; (ix) personal hygiene standards for employees, particularly those engaged in food handling; (x) the appropriate use of precautions to prevent the transmission of communicable diseases; and (xi) training standards that address food safety and food allergy awareness and safety.

The regulation meets the criteria set forth in Executive Order 14 (2018) as necessary to interpret and apply the requirements imposed by the board and is clearly written and understandable. The regulation is designed to achieve its objective in the most efficient and cost effective manner.

The agency is recommending that the regulation be retained as is. The continued need for the regulation is established in regulation and is not discretionary. The sole comment received regarding the regulation was in support of maintaining the regulation in its current state. The regulation was previously amended on June 24, 2021, to incorporate the 2017 Food and Drug Administration Food Code, a model that assists food control jurisdictions at all levels of government by providing them with a scientifically sound technical and legal basis for regulating the retail and food service segment of the industry (restaurants and grocery stores and institutions such as nursing homes). In addition, the June 2021 revision incorporated the concerns outlined in certification memo from the Office of the Attorney General. Lastly, staff evaluated the regulation in consideration of changes in technology, economic conditions, and other factors that may have an impact on the citizens of the Commonwealth. At that time, staff engaged stakeholders and the regulated community regarding amendments. As the regulation has not changed since, retaining it in its current state will not have a negative impact on small businesses throughout the Commonwealth.

Contact Information: Kristin Marie Clay, Senior Policy Analyst, Office of Environmental Health Services, Virginia Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7474.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-440, Regulations for Summer Camps**, and determined that this regulation should be amended. The department is publishing its report of findings dated June 30, 2021, to support this decision.

The General Assembly has charged the board with the responsibility to adopt, promulgate, and enforce regulations necessary to protect public health and safety as it relates to summer camps. The regulation was reviewed and determined essential to protecting public health.

The regulation helps fulfill the statutory mandate from the General Assembly by ensuring that summer camps that receive a license from the board meet minimum requirements to include (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the adequate and sanitary preparation, handling, protection, and preservation of food; (v) the proper maintenance of buildings, grounds, and equipment; (vi) vector and pest control; and (vii) adequate toilet, swimming, and bathing facilities, including shower facilities.

The regulation meets the criteria set forth in Executive Order 14 (2018) as necessary to interpret and apply the requirements imposed by the board and is clearly written and understandable. Lastly, the regulation is designed to achieve its objective in the most efficient and cost effective manner.

The regulation has not undergone a comprehensive review since its initial administrative codification, approximately 20 years ago. The regulation, in its current form, does not reflect existing industry standards or changes in technology or safety, and it no longer aligns with other regulations that govern food safety and disease prevention. The agency is recommending that the regulation be amended.

The continued need for the regulation is established in statute and is not discretionary. No comments were received during the public comment period. The regulation has several sections that appear to conflict with state regulations pertaining to food safety and do not reflect or reference current regulatory standards related to swimming facilities, general sanitation, and water supply standards. An evaluation is necessary to determine how or if technology, economic conditions, or other factors could have an impact on the regulant population or the general public.

As the agency is recommending to amend the regulations, staff will engage with stakeholders and the regulated community regarding any proposed amendments to minimize the economic impact of the regulation on small businesses while maintaining appropriate regulatory standards to ensure the safety, health, and welfare of the public.

Contact Information: Kristin Marie Clay, Senior Policy Analyst, Office of Environmental Health Services, Virginia Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7474.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-450, Rules and Regulations Governing Campgrounds**, and determined that this regulation should be retained as is. The department is publishing its report of findings dated June 24, 2021, to support this decision.

The General Assembly has charged the board with the responsibility to adopt, promulgate, and enforce regulations

Periodic Reviews and Small Business Impact Reviews

necessary to protect public health and safety as it relates to campgrounds. The regulation was reviewed and determined essential to protecting public health.

The regulation helps fulfill the statutory mandate from the General Assembly by ensuring that campgrounds that receive a license from the board meet minimum requirements including (i) an approved drinking water supply; (ii) an approved sewage disposal system; (iii) an approved solid waste disposal system; (iv) the proper maintenance of buildings, grounds, and equipment; (v) vector and pest control; (vi) adequate toilet, swimming, and bathing facilities, including shower facilities; (vii) effective measures for the control of animals and pets; and (viii) appropriate procedures and safeguards for hazardous situations, including specifically the maintenance and sale of propane gas or other explosives and combustibles.

The regulation meets the criteria set forth in Executive Order 14 (2018) as necessary to interpret and apply the requirements imposed by the board and is clearly written and understandable. Lastly, the regulation is designed to achieve its objective in the most efficient and cost effective manner.

The agency is recommending that the regulation be retained as is.

The continued need for the regulation is established in regulation and is not discretionary. The sole comment received regarding the regulation was in support of maintaining the regulation in its current state.

The regulation was previously amended as part of a periodic review on November 28, 2018, and is evaluated on an ongoing basis to ensure considerations of change in technology, economic conditions, and other factors that may have an impact on the citizens of the Commonwealth. At that time, staff engaged stakeholders and the regulated community regarding amendments. As the regulation has not changed since, retaining the regulation in its current state will not have a negative impact on small businesses throughout the Commonwealth.

Contact Information: Kristin Marie Clay, Senior Policy Analyst, Office of Environmental Health Services, Virginia Department of Health, 109 Governor Street, 5th Floor, Richmond, VA 23219, telephone (804) 864-7474.

Governing the Practice of Veterinary Medicine. The review will be guided by the principles in Executive Order 14 (as amended July 16, 2018). 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.

Public comment period begins November 22, 2021, and ends December 22, 2021.

Contact Information: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF VETERINARY MEDICINE

Agency Notice

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulation is undergoing a periodic review and a small business impact review: **18VAC150-20, Regulations**

NOTICES OF INTENDED REGULATORY ACTION

TITLE 13. HOUSING

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending **13VAC5-31, Virginia Amusement Device Regulations**. The purpose of the proposed action is to update the Virginia Amusement Device Regulations (VADR) to incorporate the 2021 editions of the American Society for Testing and Materials standards for amusement devices released in October 2020, which address new designs and arrangements of amusement devices. An amusement device is a device or structure open to the public by which persons are conveyed or moved in an unusual manner for diversion, including passenger tramways. This action will also consider amendments to administrative and enforcement provisions of the VADR as determined necessary for the proper enforcement of the regulation and to coordinate the VADR with the Uniform Statewide Building Code (13VAC5-63). Local building departments enforce the VADR. This action is exempt from Article 2 of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in accordance with § 2.2-4006 A 12 of the Code of Virginia.

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

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

Public Comment Deadline: December 22, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email kyle.flanders@dhcd.virginia.gov.

VA.R. Doc. No. R22-7019; Filed November 3, 2021, 9:37 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending **13VAC5-51, Virginia Statewide Fire Prevention Code**. The purpose of the proposed action is to update the model codes and standards developed by the International Code Council referenced in the Virginia Statewide Fire Prevention Code (SFPC) from the 2018 editions to the 2021 editions, which were released in October 2020. The action will also consider amendments to administrative and enforcement provisions of the SFPC as determined necessary for the enforcement of operations and processes relating to fire safety and explosion hazards and the maintenance of the fire protection features in buildings by the State Fire Marshal's Office and by local fire prevention agencies. This action is exempt from Article 2 of the

Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in accordance with § 2.2-4006 A 12 of the Code of Virginia.

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

Statutory Authority: § 27-97 of the Code of Virginia.

Public Comment Deadline: December 22, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email kyle.flanders@dhcd.virginia.gov.

VA.R. Doc. No. R22-7020; Filed November 3, 2021, 9:40 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending **13VAC5-63, Virginia Uniform Statewide Building Code**. The purpose of the proposed action is to update the model codes and standards developed by the International Code Council referenced in the Virginia Uniform Statewide Building Code (USBC) from the 2018 editions to the 2021 editions, which were released in October 2020. The USBC regulates the construction, reconstruction, alteration, repair, and conversion of use and maintenance of buildings and structures. This action will also consider amendments to administrative and enforcement provisions of the USBC as determined necessary for local government building departments, which enforce it. This action is exempt from Article 2 of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in accordance with § 2.2-4006 A 12 of the Code of Virginia.

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

Statutory Authority: § 36-98 of the Code of Virginia.

Public Comment Deadline: December 22, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email kyle.flanders@dhcd.virginia.gov.

VA.R. Doc. No. R22-7022; Filed November 3, 2021, 9:51 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Housing and Community Development intends to consider amending **13VAC5-91, Virginia Industrialized Building Safety Regulations**. The purpose of the proposed action is to update the model codes and standards developed by the International Code Council referenced in the Virginia Industrialized Building Safety Regulations (IBSR) from the 2018 editions to the 2021 editions. The IBSR must be updated each time the Uniform

Notices of Intended Regulatory Action

Statewide Building Code is updated to ensure that industrialized buildings meet the same minimum standards as site-built structures. Industrialized buildings are buildings constructed in a factory or plant for subsequent installation or erection on property in Virginia's cities, counties, or towns. This action will also consider amendments to administrative and enforcement provisions of the IBSR as determined necessary for the administration of the industrialized building program, which is done by the Department of Housing and Community Development's State Building Codes Office. This action is exempt from Article 2 of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in accordance with § 2.2-4006 A 12 of the Code of Virginia.

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

Statutory Authority: § 36-73 of the Code of Virginia.

Public Comment Deadline: December 22, 2021.

Agency Contact: Kyle Flanders, Senior Policy Analyst, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219, telephone (804) 786-6761, FAX (804) 371-7090, TDD (804) 371-7089, or email kyle.flanders@dhcd.virginia.gov.

VA.R. Doc. No. R22-7021; Filed November 3, 2021, 9:48 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulation provided such regulations do not differ materially from those required by federal law or regulation. The Virginia Waste Management Board is also claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC20-60. Virginia Hazardous Waste Management Regulations (amending 9VAC20-60-18).

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6921; 40 CFR Parts 260 through 272.

Effective Date: December 22, 2021.

Agency Contact: Lisa A. Ellis, Hazardous Waste Compliance Program Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4237, FAX (804) 698-4178, or email lisa.ellis@deq.virginia.gov.

Summary:

The amendments (i) update the citation to Title 40 of the Code of Federal Regulations incorporated by reference in the regulation to that published July 1, 2021, excluding the provisions of the U.S. Environmental Protection Agency's Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, which will be added in a future regulatory update; and (ii) make other technical changes.

9VAC20-60-18. Applicability of incorporated references based on the dates on which they became effective.

~~A.~~ Except as noted, when a regulation of the ~~United States~~ U.S. Environmental Protection Agency (EPA) set forth in Title 40 of the Code of Federal Regulations is referenced and incorporated into this chapter, that regulation shall be as it exists and has been published in the July 1, ~~2018~~ 2021, annual edition; however, the incorporation by reference of Title 40 of the Code of Federal Regulations shall not include the

requirements of EPA's Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule (83 FR 24664, May 30, 2018) or Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations (84 FR 67202, December 9, 2019).

~~B. The references and incorporation of Title 40 of the Code of Federal Regulations into this chapter also includes the following rules promulgated by the United States Environmental Protection Agency after publication of the July 1, 2018, annual edition of Title 40 of the Code of Federal Regulations:~~

~~1. Safe Management of Recalled Air Bags (83 FR 61552, November 30, 2018); and~~

~~2. Management of Hazardous Waste Pharmaceuticals Rule and Amendment to the P075 Listing for Nicotine (84 FR 5816, February 22, 2019).~~

VA.R. Doc. No. R22-6908; Filed October 26, 2021, 11:46 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Virginia Waste Management Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC20-85. Coal Combustion Byproduct Regulations (amending 9VAC20-85-20, 9VAC20-85-40, 9VAC20-85-70, 9VAC20-85-80, 9VAC20-85-110, 9VAC20-85-150).

Statutory Authority: § 10.1-1402 of the Code of Virginia; 42 USC § 6941; 40 CFR Part 257.

Effective Date: December 22, 2021.

Agency Contact: Kathryn Perszyk, Land Division Director, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4047, FAX (804) 698-4178, or email kathryn.perszyk@deq.virginia.gov.

Summary:

Pursuant to Chapters 387 and 532 of the 2021 Acts of Assembly, Special Session I, the amendments change the name of the Department of Mines, Minerals and Energy to the Department of Energy.

9VAC20-85-20. Definitions.

In addition to the definitions incorporated by reference, the following words and terms shall have, for the purpose of this chapter, the following meanings:

"ASTM" means the American Society for Testing and Materials.

"CCB" means coal combustion byproducts.

"Closure" means the act of securing a fossil fuel combustion products site pursuant to the requirements of this chapter.

"Coal combustion byproducts" or "CCB" means residuals, including fly ash, bottom ash, boiler slag, and flue gas emission control waste produced by burning coal. CCB includes both CCR and non-CCR wastes identified by this definition.

"Coal combustion residuals" or "CCR" means fly ash, bottom ash, boiler slag, and flue gas desulfurization materials generated from burning coal for the purpose of generating electricity by electric utilities and independent power producers. CCR is a specific type of CCB.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality or the Director of the Department of ~~Mines, Minerals and Energy~~ depending on the context.

"Fossil fuel combustion products" means coal combustion byproducts as defined in this regulation, coal combustion byproducts generated at facilities with fluidized bed combustion technology, petroleum coke combustion byproducts, byproducts from the combustion of oil, byproducts from the combustion of natural gas, and byproducts from the combustion of mixtures of coal and "other fuels" (i.e., co-burning of coal with "other fuels" where coal is at least 50% of the total fuel). For purposes of this definition, "other fuels" means waste-derived fuel product, auto shredder fluff, wood wastes, coal mill rejects, peat, tall oil, tire-derived fuel, deionizer resins, and used oil.

"Fossil fuel combustion products site" means all land and structures, other appurtenances, and improvements on them used to manage fossil fuel combustion products by the methods included in either 9VAC20-85-40 A or B.

"Perennial stream" means a stream or part of a stream that flows continuously during all of the calendar year as a result of groundwater discharge or surface runoff.

"Speculatively accumulated material" means any material that is accumulated before being used, reused, or reclaimed or in anticipation of potential use, reuse, or reclamation. Fossil fuel combustion products are not being accumulated speculatively when they can be used, reused, or reclaimed, have a feasible means of use, reuse, or reclamation available

and 75% of the accumulated fossil fuel combustion products are being removed from the storage annually.

"TCLP" means a chemical analytical procedure described in the Virginia Hazardous Waste Management Regulations, 9VAC20-60.

"Waste derived fuel product" means a solid waste or combination of solid wastes that have been treated (altered physically, chemically, or biologically) to produce a fuel product with a minimum heating value of 5,000 BTU/lb. Solid wastes used to produce a waste derived fuel product must have a heating value, or act as binders, and may not be added to the fuel for the purpose of disposal. Waste ingredients may not be listed or characteristic hazardous wastes. The fuel product must be stable at ambient temperature, and not degraded by exposure to the elements. This material may not be "refuse derived fuel (RDF)" as defined in 9VAC5-40-890.

9VAC20-85-40. Applicability.

A. This chapter applies to all persons who use, reuse, or reclaim fossil fuel combustion products by applying them to or placing them on land in a manner other than addressed in 9VAC20-81-95 of the Solid Waste Management Regulations. 9VAC20-81-95 provides for the beneficial use of waste materials such as fossil fuel combustion products, and provides for conditional exemptions from regulation for fossil fuel combustion products. This chapter also applies to all persons who use, reuse, or reclaim 12,400 tons or less of unencapsulated CCR on the land in nonroadway applications.

B. This chapter establishes minimum standards for the owners or operators of coal mining facilities that accept CCB for mine reclamation or mine refuse disposal on a mine site permitted by the Virginia Department of ~~Mines, Minerals and Energy (DMME)~~ unless otherwise exempt under 9VAC20-81-95 D 18 of the Solid Waste Management Regulations. If the permit issued by the ~~DMME~~ Virginia Department of Energy in accordance with the Coal Surface Mining Reclamation Regulations, 4VAC25-130, specifies the applicable conditions set forth in Parts III (9VAC20-85-70 et seq.) and IV (9VAC20-85-150 et seq.) of this chapter, the permittee is exempt from this chapter.

C. Conditions of applicability are as follows:

1. Persons using fossil fuel combustion products other than in a manner prescribed under this chapter, or managing fossil fuel combustion products containing any constituent at a level exceeding levels set forth in Table 1 in Part IV of this chapter, shall manage their waste in accordance with all applicable provisions of the Solid Waste Management Regulations, 9VAC20-81.
2. Materials ~~which~~ that are accumulated speculatively, materials ~~which~~ that are not utilized in a manner described in the operation plan required by 9VAC20-85-90, and off-specification materials ~~which~~ that cannot be utilized or

Regulations

reprocessed to make them usable shall be managed in accordance with all appropriate provisions of the Solid Waste Management Regulations, 9VAC20-81.

3. Storage, stockpiling, and other processing or handling of fossil fuel combustion products, which may need to occur prior to their final placement or use, reuse, or reclamation, shall be in a manner necessary to protect human health and safety and the environment. For projects permitted by the ~~DMME~~ Virginia Department of Energy, the storage, stockpiling, or handling of CCB shall be managed in accordance with the Coal Surface Mining Reclamation Regulations, 4VAC25-130.

4. Use, reuse, or reclamation of greater than 12,400 tons of unencapsulated CCR on the land in nonroadway applications shall be managed in accordance with all applicable provisions of the Solid Waste Management Regulations, 9VAC20-81.

9VAC20-85-70. Locational restrictions.

Fossil fuel combustion products used, reused, or reclaimed on or below ground shall not be placed:

1. In areas subject to base floods unless it can be shown that fossil fuel combustion products can be protected from inundation or washout and that flow of water is not restricted, except for unamended coal combustion byproduct, which shall not be placed in areas subject to base floods;

2. With the vertical separation between the fossil fuel combustion products and the maximum seasonal water table less than five feet or bedrock less than two feet;

3. Closer than:

- a. 100 feet of any perennial stream,
- b. 100 feet of any water well (other than a monitoring well) in existence at the onset of the project,
- c. 25 feet of a bedrock outcrop, unless the outcrop is properly treated to minimize infiltration into fractured zones,
- d. 100 feet of a sinkhole, or
- e. 25 feet from any property boundary or, in the case of projects permitted by the ~~DMME~~ Virginia Department of Energy, 25 feet from the permit boundary (~~NOTE:—~~All distances are to be measured in the horizontal plane.);

4. In wetlands, unless applicable federal, state, and local permits are obtained; and

5. On the site of an active or inactive dump, unpermitted landfill, lagoon, or similar facility, even if such facility is closed.

9VAC20-85-80. Design and construction.

This section prescribes design and construction standards for fossil fuel combustion products sites. The owner or operator of such a site shall submit appropriate design plans, specifications and a design report that address, at a minimum, the requirements contained in this section.

1. A survey benchmark shall be identified and its location referenced on drawings and maps of the site.

2. During construction and filling, off-site runoff shall be diverted around the use, reuse or reclamation areas. The uncovered active fossil fuel combustion products fill areas shall be graded to a maximum slope of 5.0% and a smooth surface maintained to provide for sheet flow runoff and to prevent dusting. Runoff from the use, reuse or reclamation area shall be controlled and contained by use of diversion ditches, sediment traps, berms or collection ponds in accordance with the site erosion control plan. The use, reuse, or reclamation projects shall be designed to divert surface water run on from a 25-year, 24-hour storm event. For projects permitted by the ~~DMME~~ Virginia Department of Energy, the standards for runoff, grading, and runoff shall be in accordance with the Coal Surface Mining Reclamation Regulations, ~~4VAC25-130-700.1 et seq.~~ (4VAC25-130).

3. Finished side slopes shall be stable and be configured to adequately control erosion and runoff. Side slopes of 33% will be allowed provided that adequate runoff controls are established. Steeper side slopes may be considered if supported by necessary stability calculations and appropriate erosion and runoff control features. All finished slopes and runoff management units shall be supported by necessary calculations and included in the design report.

4. The finished top slope shall be at least 2.0% to prevent ponding of water, except where covered by a building, a paved roadway, a paved parking surface, paved walkways or sidewalks, or similar structures.

5. Specifications prepared by a registered professional engineer shall be provided that indicate the criteria for the placement of the fossil fuel combustion products based on the intended use of the site. Specifications will include lab and field testing to be performed, testing frequency based on the nature and source of the materials, and the required performance of the material based on the intended use of the site. All test methods will be in accordance with the Standard Guide for Design and Construction of Coal Ash Structural Fills, American Standard Test Method E2277-03 et seq., where applicable.

6. Upon reaching the final grade, the placed material shall be covered in accordance with the requirements of Article 4 of this part.

9VAC20-85-110. Exemptions from the closure requirements.

A. An owner or operator of a site that constructs a building, a paved roadway, a paved parking surface, paved walkways and sidewalks, or other similar structures on top of the fill within a reasonable time period of reaching the final grade not to exceed 12 months shall be exempt from the requirements of this article for the portions of the fossil fuel combustion products site directly under the construction area.

B. An operator of a coal mine site permitted by the ~~DMME~~ Virginia Department of Energy who is reclaiming a site in conformance with the Coal Surface Mining Reclamation Regulations, ~~4VAC25-130-700.1 et seq., (4VAC25-130)~~ shall be exempt from the closure requirements contained in the section.

9VAC20-85-150. General.

A. Notwithstanding any provisions of Part V (9VAC20-81-400 et seq.) of the Solid Waste Management Regulations, 9VAC20-81, the owner or operator of a site ~~which that~~ manages only fossil fuel combustion products allowed under 9VAC20-85-40 shall not be required to have a solid waste management facility permit, neither must a fossil fuel combustion products facility operator certified by the Board for Waste Management Facility Operators directly supervise operations at the site, if the owner or operator at least 30 days prior to initial placement of fossil fuel combustion products provides to the appropriate department regional office and verifies receipt of:

1. A certification that it has legal control over the fossil fuel combustion products site for the project life and the closure period. For the purposes of this section, on a coal mine site permitted by the ~~DMME~~ Virginia Department of Energy, demonstration of legal right to enter and begin surface coal mining and reclamation operations shall constitute compliance with the provisions of this section.
2. A certification from the governing body of the county, city, or town in which the fossil fuel combustion products site is to be located that the location and operation of the fossil fuel combustion products site are consistent with all applicable ordinances, with the exception of projects permitted by the ~~DMME~~ Virginia Department of Energy.
3. A general description of the intended use, reuse, or reclamation of fossil fuel combustion products. Such description will include:
 - a. A description of the nature, purpose and location of the fossil fuel combustion products site, including a topographic map showing the site area and available soils, and geological maps. The description shall include an explanation of how fossil fuel combustion products will be stored prior to use, reuse, or reclamation, if applicable;

- b. The estimated beginning and ending dates for the operation;
- c. An estimate of the volume of the fossil fuel combustion products to be utilized; and
- d. A description of the proposed type of fossil fuel combustion products to be used, reused, or reclaimed, including physical and chemical characteristics of the fossil fuel combustion products. The chemical description shall contain the results of TCLP analyses for the constituents shown in Table 1. The description shall also contain a statement that the project will not manage fossil fuel combustion products that contain any constituent at a level exceeding those shown in the table.

TABLE 1. LIST OF CONSTITUENTS AND MAXIMUM LEVELS.	
Constituent	Level, mg/lit
Arsenic	5.0
Barium	100
Cadmium	1.0
Chromium	5.0
Lead	5.0
Mercury	0.2
Selenium	1.0
Silver	5.0

4. A certification by a professional engineer licensed to practice by the Commonwealth that the project meets the locational restrictions of 9VAC20-85-70. Such certificate shall contain no qualifications or exemptions from the requirements.
 5. A certificate signed by a professional engineer licensed to practice by the Commonwealth that the project has been designed in accordance with the standards of 9VAC20-85-80 if applicable. Such certificate shall contain no qualifications or exceptions from the requirements and plans.
 6. An operational plan describing how the standards of 9VAC20-85-90 will be met.
 7. A closure plan describing how the standards of Article 4 of Part III of this chapter will be met, if applicable.
 8. A signed statement that the owner or operator shall allow authorized representatives of the Commonwealth, upon presentation of appropriate credentials, to have access to areas in which the activities covered by this chapter will be, are being, or have been conducted to ensure compliance.
- B. The materials submitted under the provisions of subsection A of this section will be evaluated for completeness within 30 days of receipt by the appropriate department regional office. If the department notifies the applicant of deficiencies within

Regulations

30 days, the applicant shall postpone any construction or activities proposed in the application for the department's approval until the department's approval has been received. If the applicant has not received a notice of deficiency within 30 days, the applicant can proceed.

VA.R. Doc. No. R22-6941; Filed October 26, 2021, 11:49 a.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Final Regulation

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

Title of Regulation: 16VAC30-80. Regulations Governing Individual Self-Insurance under the Virginia Workers' Compensation Act (amending 16VAC30-80-70, 16VAC25-80-80).

Effective Date: November 22, 2021.

Agency Contact: Reba O'Connor, Policy Analyst, Virginia Workers' Compensation Commission, 333 East Franklin Street, Richmond, VA 23219, telephone (804) 774-4183, or email reba.o'connor@workcomp.virginia.gov.

Summary:

The street address for the Virginia Workers' Compensation Commission is changed to 333 East Franklin Street, Richmond VA 23219.

VA.R. Doc. No. R22-7003, R22-7017; Filed November 1, 2021, 1:38 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

Final Regulation

REGISTRAR'S NOTICE: The Virginia Board for Asbestos, Lead, and Home Inspectors is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Titles of Regulations: 18VAC15-30. Virginia Lead-Based Paint Activities Regulations (amending 18VAC15-30-52).

18VAC15-40. Home Inspector Licensing Regulations (amending 18VAC15-40-30, 18VAC15-40-152).

Statutory Authority: §§ 54.1-201 and 54.1-501 of the Code of Virginia.

Effective Date: December 22, 2021.

Agency Contact: Trisha L. Lindsey, Executive Director, Virginia Board for Asbestos, Lead, and Home Inspectors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email alhi@dpor.virginia.gov.

Summary:

Pursuant to Chapters 550 and 551 of the 2021 Acts of Assembly, Special Session I, the amendments conform regulations concerning qualifications for licensure and standards of conduct to the requirements of § 19.2-389.3 of the Code of Virginia and remove requirements for reporting by applicants or licensees of misdemeanor marijuana convictions.

18VAC15-30-52. Qualifications for licensure - individuals.

A. General. Applicants shall meet all applicable entry requirements at the time application is made.

B. Name. The applicant shall disclose ~~his~~ the applicant's full legal name.

C. Age. The applicant shall be at least 18 years old.

D. Address. The applicant shall disclose a physical address. A post office box is only acceptable when a physical address is also provided.

E. Training. The applicant shall provide documentation of having satisfactorily completed the board-approved initial training program and all subsequent board-approved refresher training programs as specified in subsection F of this section. Board-approved initial training programs shall be valid for 36 months after the last day of the month wherein completed. Board-approved refresher training programs shall be satisfactorily completed no later than 36 months after the last day of the month wherein the board-approved initial training program was completed and once each 36 months thereafter.

F. Specific entry requirements.

1. Worker. Each applicant for a lead abatement worker license shall provide evidence of successful completion of board-approved lead abatement worker training in accordance with subsection E of this section.

2. Project designer.

a. Each applicant for a lead project designer license shall provide evidence of successful completion of board-approved lead project designer training and board-

approved lead abatement supervisor training in accordance with subsection E of this section.

b. Each applicant for a lead project designer license shall also provide evidence of successful completion of one of the following:

- (1) A bachelor's degree in engineering, architecture, or a related profession, and one year experience in building construction and design or a related field; or
- (2) Four years of experience in building construction and design or a related field.

3. Supervisor.

a. Each applicant for a lead abatement supervisor license shall provide evidence of:

- (1) Successful completion of board-approved lead abatement supervisor training in accordance with subsection E of this section; and
- (2) One year of experience as a licensed lead abatement worker or two years of experience in a related field (e.g., lead, asbestos, or environmental remediation) or in the building trades.

b. Each applicant shall pass a board-approved licensing examination for supervisors within 36 months after completion of the board-approved lead abatement supervisor initial training course or the board-approved lead supervisor refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

c. A licensed lead abatement supervisor may perform the duties of a licensed lead abatement worker.

4. Inspector.

a. Each applicant for a lead inspector license shall provide evidence of successful completion of board-approved lead inspector training in accordance with subsection E of this section.

b. Each applicant shall pass a board-approved licensing examination for lead inspector within 36 months after completion of the board-approved lead inspector initial training course or the board-approved lead inspector refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

5. Risk assessor.

a. Each applicant for a lead risk assessor license shall provide evidence of successful completion of board-approved lead risk assessor training and successful completion of board-approved lead inspector training in accordance with subsection E of this section.

b. Each applicant for a lead risk assessor license shall also provide evidence of successful completion of one of the following:

- (1) Certification or licensure as an industrial hygienist, a professional engineer, or a registered architect or licensure in a related engineering/health/environmental field;
- (2) A bachelor's degree and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction);
- (3) An associate's degree and two years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
- (4) A high school diploma or its equivalent, and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction).

c. Each applicant shall pass a board-approved licensure examination for risk assessor within 36 months after completion of the board-approved lead risk assessor initial training course or the board-approved lead risk assessor refresher course. Applicants who fail the examination three times must provide to the board evidence, after the date of their third examination failure, of having retaken and satisfactorily completed the initial training requirements and make new application to the board. The applicant is then eligible to sit for the examination an additional three times.

G. Training verification. Training requirements shall be verified by submittal to the board of the training certificate issued by the accredited lead training provider for that course.

H. Education verification. Education requirements shall be verified by submittal to the board on the Education Verification Form sent directly from the school.

I. Experience verification. Experience requirements shall be verified by resumes, letters of reference, or documentation of work experience.

J. Conviction or guilt. The applicant shall disclose the following information:

- 1. A conviction in any jurisdiction of any felony.
- 2. A conviction in any jurisdiction of any misdemeanor except marijuana convictions.
- 3. Any disciplinary action taken in another jurisdiction in connection with the applicant's environmental remediation practice including, ~~but not limited to,~~ monetary penalties,

Regulations

fines, suspension, revocation, or surrender of a license in connection with a disciplinary action.

4. Any current or previously held environmental remediation certifications, accreditations, or licenses issued by Virginia or any other jurisdiction.

Subject to the provisions of § 54.1-204 of the Code of Virginia, the board may deny any application for licensure or accreditation as a lead training provider when any of the parties listed in this subsection have been convicted of any offense listed in this subsection or has been the subject of any disciplinary action listed in subdivision 3 of this subsection. Any plea of nolo contendere shall be considered a conviction for the purposes of this subsection. A certified copy of a final order, decree, or case decision by a court or regulatory agency with the lawful authority to issue such order shall be admissible as prima facie evidence of such conviction or discipline.

K. Standards of conduct and practice. Applicants shall be in compliance with the standards of conduct and practice set forth in Part VIII (18VAC15-30-510 et seq.) of this chapter at the time of application to the board, while the application is under review by the board, and at all times when the license is in effect.

L. Standing. The applicant shall be in good standing in every jurisdiction where licensed, and the applicant shall not have had a license that was suspended, revoked, or surrendered in connection with any disciplinary action in any jurisdiction prior to applying for licensure in Virginia. The board, at its discretion, may deny licensure or approval to any applicant based on disciplinary action by any jurisdiction.

18VAC15-40-30. General requirements for licensure.

A. In addition to the provisions of 18VAC15-40-32, every applicant for a home inspector license shall meet the requirements provided in this section.

B. The applicant shall be at least 18 years old.

C. The applicant shall provide a mailing address, which shall serve as the address of record. A post office box is only acceptable as the address of record when a physical address is also provided.

D. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall disclose the following information:

1. All misdemeanor convictions involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury within five years of the date of the application; and
2. All felony convictions during ~~his~~ the applicant's lifetime.

Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The record of conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion,

may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

E. The applicant for licensure shall be in compliance with the standards of conduct and practice set forth in Part V (18VAC15-40-140 et seq.) of this chapter at the time of application, while the application is under review by the board, and at all times when the license is in effect.

F. The applicant shall report any suspension, revocation, or surrender of a license, certification, or registration in connection with a disciplinary action or a license, certification, or registration that has been the subject of discipline in any jurisdiction prior to applying for licensure. The board, in its discretion, may deny licensure to any applicant based on prior suspensions, revocations, or surrender of licenses based on disciplinary action by any jurisdiction. The applicant has the right to request further review of any such action by the board under the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

G. The applicant for licensure shall submit evidence of having obtained general liability insurance with minimum limits of \$250,000 per occurrence. A business liability insurance policy or a commercial general liability insurance policy with minimum limits of \$250,000 may be considered to meet such requirement, so long as the applicant is listed as an additional insured. If for any reason the board cannot reasonably ensure that the applicant is sufficiently covered in accordance with this subsection, the board may require that requisite coverage be obtained in the name of the applicant. Proof of such insurance policy must be submitted in order to obtain the license.

18VAC15-40-152. Notice of adverse action.

A. A licensee shall notify the board of the following actions against the licensee:

1. Any disciplinary action taken by any jurisdiction, board, or administrative body of competent jurisdiction, including any (i) reprimand; (ii) license or certificate revocation, suspension, or denial; (iii) monetary penalty; (iv) requirement for remedial education; or (v) other corrective action.
2. Any voluntary surrendering of a related license, certificate, or registration done in connection with a disciplinary action in another jurisdiction.
3. Any conviction, finding of guilt, or plea of guilty, regardless of adjudication or deferred adjudication, in any jurisdiction of the United States of any (i) misdemeanor involving moral turpitude, sexual offense, non-marijuana drug distribution, or physical injury or relating to performing a home inspection or (ii) felony, there being no appeal pending therefrom or the time for appeal having lapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo

contendere shall be considered a conviction for the purpose of this section.

[Auxiliary Grant Certification - Supportive Housing, 032-15-0012-04-eng \(rev. 8/2021\)](#)

VA.R. Doc. No. R22-7008; Filed October 21, 2021, 9:54 a.m.

B. The notice must be made to the board in writing within 30 days of the action. A copy of the order or other supporting documentation must accompany the notice. The record of conviction, finding, or case decision shall be considered prima facie evidence of a conviction or finding of guilt.

VA.R. Doc. No. R22-6974; Filed September 27, 2021, 11:41 a.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. 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 with a hyperlink 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: **22VAC30-80. Auxiliary Grants Program.**

Statutory Authority: § 51.5-160 of the Code of Virginia.

Agency Contact: Charlotte Arbogast, Policy Analyst, Department for Aging and Rehabilitative Services, 2326 Maplewood Road, Henrico, VA 23228, telephone (804) 662-7093, FAX (804) 622-7663, or email charlotte.arbogast@dars.virginia.gov.

FORMS (22VAC30-80)

~~[Auxiliary Grant Provider Agreement, 032-02-0747-06-eng \(rev. 7/2017\)](#)~~

~~[Auxiliary Grant Certification, Reporting Period July 1, 2016, to June 30, 2017, 032-02-0745-10-eng \(rev. 7/2017\)](#)~~

~~[Statement of Virginia Residency and Intent to Remain in Virginia, 032-02-0749-00-eng \(eff. 12/2012\)](#)~~

~~[Auxiliary Grant Certification, Reporting Period April 1, 2017, to October 1, 2017, 032-15-0012-00-eng \(eff. 2/2017\)](#)~~

[Auxiliary Grant Provider Agreement, 032-02-0747-08 \(rev. 8/2019\)](#)

[Auxiliary Grant Certification, 032-02-0745-14-eng \(rev. 6/2021\)](#)

[Auxiliary Grant Program Statement of Virginia Residency and Intent to Remain in Virginia, 032-02-0749-01-eng \(rev. 5/2018\)](#)

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

STATE AIR POLLUTION CONTROL BOARD

Title of Document: [Air Permit Application Fee Guidance.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: January 1, 2022.

Agency Contact: Stanley M. Faggert, Minor New Source Review Coordinator, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 698-4424, or email stanley.faggert@deq.virginia.gov.

STATE BOARD OF EDUCATION

Title of Document: [Approved Training Programs for the Treatment of Students with a Seizure Disorder.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

Agency Contact: Jim Chapman, Regulatory and Legal Coordinator, Department of Education, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2092, or email jim.chapman@doe.virginia.gov.

BOARD OF LONG-TERM CARE ADMINISTRATORS

Titles of Documents: [Confidential Consent Agreements.](#)

[Guidance on Completion of Continuing Education.](#)

[Guidelines for Processing Applications for Licensure: Examination, Endorsement, and Reinstatement.](#)

[Procedures for Auditing Continuing Education.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

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

DEPARTMENT OF MOTOR VEHICLES

Titles of Documents: [Agreement and Designation for Use of RoadTest Tablets.](#)

[Get on Board with REAL ID.](#)

[REAL ID - A Real Choice for Virginians.](#)

[REAL ID - You have a REAL Choice.](#)

[RoadTest Tablet Letter.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

Agency Contact: Melissa K. Velazquez, Legislative Director, Department of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23220, telephone (804) 367-1844, or email melissa.velazquez@dmv.virginia.gov.

BOARD OF NURSING

Titles of Documents: [Application for Initial Approval of Nursing Education Program.](#)

[Continued Full Approval of Nursing Education Program.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

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

BOARD OF VETERINARY MEDICINE

Titles of Documents: [Allowances to Purchase, Possess, and Administer Drugs within a Public or Private Animal Shelter.](#)

[Delegation of Dental Polishing and Scaling.](#)

[Duties of an Unlicensed Veterinary Assistant.](#)

[Guidance for Conduct of an Informal Conference by an Agency Subordinate of a Health Regulatory Board at the Department of Health Professions.](#)

[Guidance Regarding "Chip" Clinics Outside of Approved Facilities.](#)

[Guidelines for Processing Applications for Licensure.](#)

[Veterinarians and Wildlife Rehabilitators - Prescription Drugs.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

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

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Title of Document: [Guidance Regarding License Requirements for Operators of an Alternative Sewage System Exceeding 10,000 Gallons per Day.](#)

Public Comment Deadline: December 22, 2021.

Effective Date: December 23, 2021.

Agency Contact: Tanya Pettus, Administrator, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-1795, or email wwwoosp@dpor.virginia.gov.

GENERAL NOTICES

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Addiction and Recovery Treatment Services Provider Manual

The draft Addiction and Recovery Treatment Services (ARTS) Provider Manual Chapters II, IV, V, and VI are now available on the Department of Medical Assistance Services website at <https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/> for public comment until November 24, 2021.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Enforcement Action for the Town of Big Stone Gap

An enforcement action has been proposed for the Town of Big Stone Gap for violations of the State Water Control Law at the Big Stone Gap regional wastewater treatment plant in Wise County. The State Water Control Board proposes to issue a consent order to resolve violations associated with the facility. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. The staff contact person will accept comments by email or postal mail from November 22, 2021, through December 22, 2021.

Contact Information: Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email jonathan.chapman@deq.virginia.gov.

Proposed Enforcement Action for R.K. Shergill Inc.

The State Water Control Board proposes to issue a consent special order to R.K. Shergill Inc. for alleged violation of the State Water Control Law at Lucky's of Brandermill, 13636 Genito Road, Midlothian, VA 23112. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. The staff contact will accept comments by email or postal mail from November 22, 2021, to December 28, 2021.

Contact Information: Aree Reinhardt, Department of Environmental Quality, Piedmont Regional Office (Enforcement), 4949-A Cox Road, Glen Allen, VA 23060, or email aree.reinhardt@deq.virginia.gov.

Proposed Enforcement Action for Stephen Alexander Homes LLC

An enforcement action has been proposed for Stephen Alexander Homes LLC for violations of the State Water Control Law and regulations at the Kaywood Lane Development located in Chesapeake, Virginia. The State Water Control Board proposes to issue a consent order to resolve violations associated with the property. A description of the proposed action is available at the Department of Environmental Quality office listed or online at www.deq.virginia.gov. The staff contact person listed will accept comments by email or by postal mail from November 22, 2021, through December 22, 2021.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, VA 23462, telephone (757) 518-2021, FAX (804) 698-4178, or email russell.deppe@deq.virginia.gov.

Public Meeting to Discuss the Total Maximum Daily Load for Middle Fork Holston River and Tributaries

Public meeting: Thursday, December 2, 2021, 6:30 p.m. to 8 p.m. Board of Visitors Room, Van Dyke Center, Emory and Henry College, 30461 Garnand Drive, Emory, VA. All attendees are expected to wear a mask and maintain adequate social distancing. In the event of inclement weather, the meeting will be held on December 7, 2021, at the same time at the Department of Environmental Quality, Southwest Regional Office, 355 A Deadmore Street, Abingdon, VA 24210.

Purpose of notice: The Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the development of total maximum daily loads (TMDLs), for the Middle Fork Holston River in Smyth, Wythe, and Washington Counties and the tributaries Greenway Creek, Hall Creek, Byers Creek, Cedar Creek, and Tattle Branch in Washington County. These streams are listed on the § 303(d) TMDL Priority List and Report as impaired due to violations of the state's General (Benthic) Water Quality Standard for failing to support the aquatic life use.

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

Description of study: This study updates and revises two previously completed TMDLs. TMDL Development for Cedar Creek, Hall/Byers Creek, and Hutton Creek was completed in December of 2003 and Bacteria and Benthic Total Maximum Daily Load Development for Middle Fork Holston River was completed in October 2009. Impaired (benthic) segments from these previous TMDLs have been combined into this current study along with a Greenway Creek segment not previously included in a completed TMDL.

The impaired segments include the Middle Fork Holston River (12.99 miles) in Wythe and Smyth Counties from the mainstem headwaters upstream at Groseclose and downstream to the Dutton Branch confluence and the mainstem Middle Fork Holston River segment (3.42 miles) in Washington County from the Sulphur Springs Creek confluence to Edmondson Dam. Impaired segments also included in the study (all in Washington County) are Greenway Creek (5.02 miles) from the headwaters downstream to the confluence with the Middle Fork Holston River and Hall Creek (6.91 miles) from headwaters north of Emory through Emory and Henry College to the Byers Creek confluence. Byers Creek (0.49 miles) from Hall Creek and Indian Run confluence downstream to Middle Fork Holston River confluence; Cedar Creek (5.61 miles) from confluence of East Fork Cedar Creek and West Fork Cedar Creek through Cedarville to Middle Fork Holston confluence; and Tattle Branch (2.77 miles) from headwaters to Byers Creek confluence.

These segments have been placed on Virginia's impaired waters list for failing to support the aquatic life use. The general water quality standard is intended to protect the aquatic life designated use, which states that all of the Commonwealth's waterways will support a diverse and abundant population of aquatic life. This study will include a benthic stressor analysis to determine the most likely pollutant responsible for the impairments, and it will report on the sources of this pollutant and recommend reductions to meet a TMDL for the impaired streams. A TMDL is the total amount of a pollutant a water body can contain and still meet water quality standards. To restore water quality in Middle Fork Holston River and tributaries, pollutant levels will need to be reduced to the TMDL amount. A component of a TMDL is the wasteload allocation (WLA); therefore, this notice is provided pursuant to § 2.2-4006 A 14 of the Administrative Process Act for any future adoption of the TMDL WLAs.

An advisory committee to assist in development of this TMDL will be established. Each person interested in assisting should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address, and the organization being represented (if any). Notification of the composition of the panel will be sent to all applicants.

How to comment and participate: All meetings in support of TMDL development are open to the public, and all interested parties are welcome. Written comments will be accepted from December 2, 2021, through January 3, 2022, and should include the name, address, and telephone number of the person submitting the comments. For more information, or to submit written comments, please use the contact information listed.

Contact Information: David Nichols, TMDL Coordinator, Department of Environmental Quality, 355 A Deadmore Street, Abingdon, VA 24210, telephone (276) 676-4805, or email david.nichols@deq.virginia.gov.

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.

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.

General Notices
