VIRGINIA REGISTER OF REGULATIONS

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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.virgina.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.

PUBLICATION SCHEDULE AND DEADLINES

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

September 2022 through September 2023

Volume: Issue	Material Submitted By Noon*	Will Be Published On
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
39:10	December 13, 2022 **(Tuesday)**	January 2, 2023
39:11	December 27, 2022 **(Tuesday)**	January 16, 2023
39:12	January 11, 2023	January 30, 2023
39:13	January 25, 2023	February 13, 2023
39:14	February 8, 2023	February 27, 2023
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39:23	June 14, 2023	July 3, 2023
39:24	June 28, 2023	July 17, 2023
39:25	July 12, 2023	July 31, 2023
39:26	July 26, 2023	August 14, 2023
40:1	August 9, 2023	August 28, 2023
40:2	August 23, 2023	September 11, 2023
40:3	September 6, 2023	September 25, 2023

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Initial Agency Notice

Title of Regulation: **18VAC85-21. Regulations Governing Prescribing of Opioids and Buprenorphine.**

Statutory Authority: §§ 54.1-2400 and 54.1-2928.2 of the Code of Virginia.

Name of Petitioner: Todd Lacksonen.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-21-40 to replace the requirement to co-prescribe naloxone with certain medications or conditions with a requirement to co-prescribe a federal Food and Drug Administration opioid-reversal agent.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on August 29, 2022. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which opens August 29, 2022, and closes September 19, 2022. The Board of Medicine will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for October 6, 2022.

Public Comment Deadline: September 19, 2022.

Agency Contact: William L. Harp, Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR22-44; Filed July 27, 2022, 3:17 p.m.

Agency Decision

Title of Regulation: **18VAC85-150. Regulations Governing the Practice of Behavior Analysis.**

Statutory Authority: §§ 54.1-2400 and 54.1-2957.16 of the Code of Virginia.

Name of Petitioner: Michael Moates.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-150-110, which provides the scope of practice for behavior analysts, to ban conversion therapy, shock therapy, and the use of a graduated electronic decelerator to modify behavior.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Medicine considered the petition at its August 5, 2022, Executive Committee meeting and decided to take no action. Conversion therapy is already prohibited for all licensees of the Department of Health Professions. No regulation is necessary to enforce the statute. Additionally, the board can address any standard of care violations that may arise by the use of shock therapy or graduated electronic decelerators through its standard disciplinary provisions.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR22-31; Filed August 5, 2022, 4:29 p.m.

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-130, Rules and Regulations Governing Laboratory Fees for Services Rendered or Performed**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 14, 2022, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare in that it provides major support to and a source of funding for the operation of the Animal Health Laboratory System. The Animal Health Laboratory System provides frontline monitoring in detecting and preventing animal diseases that could impact public health. Consumers are also protected by the testing of various products, including milk, meat, cheese, ice cream, and water. The regulation is clearly written and easily understandable.

The board is recommending that the regulation should stay in effect without change and is effective in its current format. No changes to department or industry practices have occurred that would necessitate any modifications.

There is a continuing need for this regulation in order to support the operation of the Animal Health Laboratory System. There have been no complaints from the public concerning the regulation. The regulation is necessarily uncomplicated. There is no overlap with federal or other state law or regulations. Technology, economic conditions, or other factors have not impacted the need for this regulation, but in fact make the existence of this regulation even more necessary. Economic conditions have resulted in the Animal Health Laboratory System being more dependent on fee revenue to provide the current technology needed to offer services to clients. The primary effect on small business is a beneficial one, as veterinary practices, agricultural businesses, and livestock or other animal owners in the Commonwealth are able to obtain laboratory services near their place of operation and at an affordable price.

Contact Information: Jessica Walters, Program Manager, Office of Laboratory Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-9202.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-205, Rules and Regulations Pertaining to Shooting Enclosures**, and determined that this regulation should be repealed. The board is publishing its report of findings dated June 14, 2022, to support this decision.

The regulation is clearly written and easily understandable. However, the regulation is no longer necessary since the last remaining shooting enclosure closed in 2017, and the board does not have authority to license new shooting enclosures. Therefore, the board has decided to repeal this regulation.

Contact Information: Carolynn Bissett, Program Manager, Office of Veterinary Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-4560.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-220, Virginia Horse Breeder Incentive Program**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 14, 2022, to support this decision.

This regulation is necessary for the protection of public welfare in that it establishes the necessary rules for the administration of the Virginia Horse Breeder Incentive Program, which encourages the growth of the horse breeding industry in Virginia. The regulation is clearly written and easily understandable. The board recommends that the regulation stay in effect without change because the growth of the horse breeding industry in Virginia, which has a positive impact on Virginia's economy.

The board has determined that there is a continuing need for this regulation in order to encourage the growth of the Virginia horse breeding industry, which includes many small businesses. There have been no complaints from the public concerning the regulation. The regulation is not unnecessarily complex. There is no overlap with federal or state law or regulations. The board has determined that no changes have occurred in the area affected by this regulation since the last periodic review that would make it necessary to amend or repeal the regulation. The board has determined that that current version of the regulation is consistent with current industry practices and is the least burdensome and least intrusive alternative.

Contact Information: Heather Wheeler, Business and Marketing Specialist, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-8993.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services

conducted a periodic review and a small business impact review of **2VAC5-230, Rules and Regulations Applicable to Controlled Atmosphere (CA) Apples**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 15, 2022, to support this decision.

This regulation benefits welfare of citizens through availability of better quality apples throughout the year. The regulation is clearly written and easily understandable by the regulated industry.

The board recommends that this regulation stay in effect without change. The board has determined that this regulation continues to be necessary. The board has not received any complaints or comments regarding the regulation. The board has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The board last conducted a periodic review of the regulation in 2016, and the board has determined that no changes in technology, economic conditions, or other factors have occurred that necessitate amendments to the regulation. The board continues to believe the current regulation is the least burdensome and intrusive alternative for the required regulation of the apple industry.

Contact Information: Leon White, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3548.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-300, Rules and Regulations for the Enforcement of the Virginia Seed Potato Standards**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 15, 2022, to support this decision.

This regulation protects the economic welfare of potato growers by ensuring seed potatoes entering the state and utilized by growers for commercial production comply with official standards for approved seed potatoes. The regulation is clearly written and easily understood by the regulated industry and consumers.

The board recommends that this regulation stay in effect without change because the regulation is necessary to support the economic welfare of potato growers. The board has determined that this regulation continues to be necessary. The board has not received any complaints or comments regarding the regulation. The board has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. This regulation does not overlap, duplicate, or conflict with federal or state law or regulation. The board last conducted a periodic review of the regulation in 2016 and has determined that no changes in technology, economic conditions, or other factors have occurred that necessitate amendments to the regulation. The board continues to believe the current regulation is the least burdensome and intrusive alternative for the required regulation of the potato industry.

Contact Information: Leon White, Program Manager, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3548.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-380, Rules and Regulations for the Enforcement of the Virginia Dealers in Agricultural Products Law**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 18, 2022, to support this decision.

This regulation is necessary to support the economic welfare of producers of agricultural produce and is clearly written and easily understandable. The board recommends that the regulation stay in effect without change.

The provisions of this regulation establish notice and written receipt requirements and are not unnecessarily burdensome. The board has determined that this regulation should be retained in order to continue to protect and support the economic welfare of producers of agricultural produce. The board has not received any complaints or comments from the public concerning this regulation. The board has determined that this regulation is not unnecessarily complex and that the complexity of this regulation is not such that it would have an economic impact on small businesses. The federal Perishable Agricultural Commodities Act (the Act) (7 USC § 499) requires any person who buys or sells more than 2,000 pounds of fresh or frozen fruits and vegetables in any given day to be licensed. The regulation does not appear to overlap, duplicate, or conflict with the requirements of the Act or with any other federal or state law or regulation. The board has determined that no change in the affected industry has occurred subsequent to the board's previous periodic review of this regulation that would necessitate the amendment or repeal of this regulation.

Contact Information: David Gianino, Program Manager, Office of Plant Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3515.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-520, Rules and Regulations Governing Testing of Milk for Milkfat, Protein, and Lactose Content by Automated Instrument Methods**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated June 14, 2022, to support this decision.

Section 3.2-5224 of the Code of Virginia states that no test or contrivance other than the Babcock test method or other centrifugal machines may be used unless approved by the board. The absence of other methods approved by the board would force the dairy industry to use only the Babcock test method for determining the composition of milk or cream as a basis for payment in buying or selling milk or other fluid dairy products. The regulation provides for alternative testing methods for determining the composition of milk or other fluid dairy products. Automated light scattering methods, infrared milk analyzer methods, and numerous other methods detailed in the Official Methods of Analysis of the Association of Official Analytical Chemists are provided for by the regulation. Therefore, the regulation is necessary for the protection of public health, safety, and welfare as it allows for approval of the most cost-effective methods of analysis for milk and other fluid dairy products intended for consumption by Virginia's citizens and helps to ensure that an affordable milk supply is available to the public. The regulation is clearly written and easily understandable. The agency is recommending that the regulation should stay in effect without change. Additionally, there have been no changes to agency or industry practices to necessitate any modifications.

The agency has not received any complaints or comments concerning the regulation from the public. The regulation is simple and easily understood. The regulation is not mandated by any federal law or regulation, but it is mandated by and expands upon state law. It does not conflict with any federal or other state laws or regulations. The most current testing method technologies are supported by this regulation. The economic impact of the regulation on small businesses is favorable in that small laboratory equipment companies can offer for sale alternative testing equipment that meets regulatory guidelines. In addition, the regulation is effective in providing alternative, cost-effective testing methods for determining the composition of milk or other fluid dairy products. Therefore, the board has determined that the regulation should be retained as-is.

Contact Information: Ryan Davis, Program Manager, Office of Dairy and Foods, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-8899.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Agriculture and Consumer Services conducted a periodic review and a small business impact review of **2VAC5-690, Regulations for Pesticide Containers and Containment under Authority of the Virginia Pesticide Control Act**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 18, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare as it assists in minimizing human exposure during container handling and protecting the environment from potential contamination resulting from accidental pesticide discharges. The board has determined that this regulation is clearly written and easily understood by the regulated industry.

The board is recommending the regulation stay in effect without change. The current regulation has been found to be sufficient to minimize human exposure during container handling and protect the environment from potential contamination resulting from accidental pesticide discharges.

This regulation establishes (i) standards for container design and residue removal in nonrefillable pesticide containers, standards for container design in refillable pesticide containers, standards for repackaging pesticide products into refillable containers, and pesticide containment structures; and (ii) recordkeeping requirements. Individuals, businesses, or other entities affected by the regulation may include pesticide registrants, retailers, distributors, commercial applicators, custom blenders, and endusers. Virginia's regulation is equivalent to the federal regulations that are currently in place and allows more flexibility and greater discretion in the enforcement of pesticide container and containment requirements based on Virginia's unique needs and conditions. No complaints or comments concerning the regulation have been received from the public. This regulation became effective in January 2014, and no conditions or factors have changed since this time that would necessitate any revisions to this regulation.

Approximately 50 facilities are required to comply with the regulation. The vast majority of these facilities are small businesses. As the regulation is equivalent to the federal regulation, this regulation does not prescribe requirements for regulants with which they would not have to comply were the regulation repealed. Amending the current regulation to provide exemptions from its provisions or less stringent requirements for certain regulants would not provide protection for human health and the environment.

Contact Information: 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.

TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Air Pollution Control Board conducted a periodic review and a small business impact review of **9VAC5-40, Existing Stationary Sources**, and determined that this regulation should be amended. The board is publishing its report of findings dated July 14, 2022, to support this decision.

For all articles:

The regulation is necessary for the protection of public health and welfare as it is needed to meet the primary goals of the federal Clean Air Act (CAA), which are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), the prevention of significant deterioration (PSD) of air quality in areas cleaner than the NAAQS, and the prevention visibility impairment in Class I areas.

The NAAQS establish the maximum limits of pollutants that are permitted in the ambient air in order to protect public health and welfare. The Environmental Protection Agency (EPA) requires that each state submit a state implementation plan (SIP), including any laws and regulations necessary to enforce the plan, which shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

An SIP is the key to the state's air quality programs. The CAA is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA is empowered to take the necessary actions to attain and maintain the air quality standards, that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented; the sanctions consist of loss of federal funds for highways and other projects or more restrictive requirements for new industry. Generally, the plan is revised as needed based upon changes in the CAA and its requirements.

The basic approach to developing an SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures. Stationary source control measures limit emissions primarily from commercial or industrial facilities and operations and include emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures that are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include Federal Motor Vehicle Emission Standards, fuel volatility limits, and inspection and maintenance programs. Transportation control measures limit the location and use of motor vehicles and include carpools, special bus lanes, rapid transit systems, commuter park and ride lots, signal system improvements, and many others.

Federal guidance on state approaches to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the CAA to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the CAA's broad-based directive to states to attain and maintain the air quality standards. However, the CAA Amendments of 1990, along with current EPA regulations and policy and ongoing updates, has become much more specific, thereby removing much state discretion to craft their own air quality control programs.

Generally, a SIP is revised as needed based upon changes in air quality or statutory requirements. For the most part the SIP has worked and the standards have been attained for most pollutants in most areas. Therefore, these specific SIP provisions, including implementation of this regulation, are necessary for the protection of public health and welfare.

Additionally for Part II, Articles 5, 6, 11, 23 through 43, 47, 48, 51, 53, and 56 through 59:

Generally, an SIP is revised, as needed, based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant – ozone – has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NO_X), and sunlight. When VOC and NO_X emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Once a nonattainment area is defined, each state is obligated to submit an SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the CAA required that certain specific control measures and other requirements

be adopted and included in the SIP; a list of those requirements that necessitated the adoption of state regulations is provided in this result of findings. In addition, the state had to demonstrate that it would achieve a VOC emission reduction of 15%. Finally, the SIP had to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3.0% from 1996 to 1999) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown in this report of findings were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end.

For all areas in Virginia:

1. Correct existing VOC regulatory program (controls on certain sources identified in EPA control techniques guidelines).

2. Requirement for annual statements of emissions from industries.

3. Permit program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas).

4. Procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans.

For all nonattainment areas classified as "moderate" and above:

1. Requirement for controls for all major (100 tons per year) VOC sources.

2. Requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II).

3. Requirement for controls for all major (100 tons per year) NO_X sources.

4. Case-by-case control technique determinations for all major VOC and NO_X sources not covered by a EPA control technique guideline.

Therefore, these specific SIP provisions, including implementation of this regulation, are necessary for the protection of public health and welfare.

For Part II, Articles 21, 43, 43.1, 45, 46, 54, and 55:

Section 111(d) of the federal CAA addresses pollutants emitted by specific categories of sources that may reasonably anticipated to endanger public health and welfare. Like a § 110 SIP, a state's § 111(d) plan is designed to control emissions from these specific source categories in such a way as to protect public health and welfare.

As discussed in this report of findings, emissions from landfills and solid waste incinerators are considered to be "designated" pollutants under §§ 111(d) and 129 of the CAA. Designated pollutant controls are critical for two reasons. First, only a limited number of air pollutants potentially harmful to human health are regulated at the federal level. Second, health risks from small exposures to designated air pollutants can be high, depending on the substances involved. Landfill emissions include non-methane organic compounds, which contribute to the formation of ozone, and methane, which is a powerful greenhouse gas. Solid waste incinerator emissions consist of particulate matter, carbon monoxide, dioxin/furan, and other substances known or suspected of causing cancer, nervous system damage, developmental abnormalities, reproductive impairment, immune suppression, liver dysfunction, hormone imbalance, and other serious health effects. Control of such emissions will reduce and prevent such serious health effects. Therefore, implementation of this regulation is necessary for the protection of public health and welfare.

For Part II, Article 52:

Best available retrofit technology (BART) is required for any BART-eligible source that emits any air pollutant that may reasonably be anticipated to cause or contribute to visibility impairment in any Class I area. Accordingly, for stationary sources meeting these criteria, states must address the BART requirement when developing regional haze SIPs. Therefore, these specific SIP provisions, including implementation of this regulation, are necessary for the protection of public health and welfare.

All provisions in summary:

The regulation has been effective in protecting public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, ensuring that owners comply with air pollution emission limits and control technology requirements in order to meet federal health and welfare based standards. The specific pollutants being effectively controlled under this regulation are VOCs; particulate matter; SO_2; NO_X; hydrogen sulfide; sulfuric acid; total reduced sulfur; visible emissions; fugitive dust/emissions; odor-causing emissions; § 111(d)-designated pollutants, including carbon monoxide, cadmium, lead, mercury, hydrogen chloride, dioxins, and furans; and visibility-impairing pollutants, including particulate matter, SO_2, NO_X, VOCs, and ammonia.

The board has determined that this regulation is clearly written and easily understandable by the individuals and entities affected. The regulation is written so as to permit only one reasonable interpretation, to adequately identify the affected entity, and, insofar as possible, in nontechnical language.

Except as otherwise noted, this regulation satisfies the provisions of the law and legally binding state and federal requirements and is effective in meeting its goals; therefore, the majority of the regulation is being retained without amendment.

Based on public comment, it has been determined that 9VAC5-40-50 and potentially other similar sections should be amended to allow the use of electronic signature for certain submittals.

In order to determine the ongoing applicability of the regulation, a review of the Comprehensive Environmental Data System (CEDS) was made. CEDS is Virginia's air regulatory registration database. Facilities must register in this database all units to which a regulation of the board applies. This review revealed that two facility types covered by this regulation no longer operate in the state: petroleum refinery operations and large appliance coating application systems. Therefore, it is recommended that Article 11, Emission Standards for Petroleum Refinery Operations (9VAC5-40-1340 et seq.), and Article 26, Emission Standards for Large Appliance Coating Application Systems (9VAC5-40-3560 et seq.), be repealed.

Additionally, it is recommended that Article 41, Emission Standards for Mobile Sources (9VAC5-40-5650 et seq.), be repealed. Since Article 41 was originally adopted, important changes have been made to federal and state law that have resulted in significantly better control of the emissions than this regulation was designed to limit. Federal motor vehicle emission standards have become increasingly stringent over the last 30 years, resulting in large reductions in air pollution. Additionally, most motor vehicles in northern Virginia are subject to the inspection and maintenance (I/M) program, which provides a much higher level of stringency for ozone pollution control than the level provided by the idling provision in Article 41. Idling issues are most effectively addressed by localities, which are better able to implement and enforce that type of local, intermittent problem, via local ordinance as enabled by § 46.2-1224.1 of the Code of Virginia. The remainder of the regulation is accomplished through statewide safety inspections carried out by the State Police through § 46.2-1048 of the Code of Virginia.

With the exceptions noted, this regulation continues to be needed. The regulation provides sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality.

No comments were received that indicate a need to repeal the regulation; one comment was received that indicates some revisions to address the concept of "postmarking" certain submittals was received.

The level of complexity of the regulation is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible.

The regulation does not overlap, duplicate, or conflict with any state law or other state regulation, with the exception of Article 41, which in large part duplicates existing code. The regulation last underwent periodic review in 2018.

Over time, technological improvements make it generally less expensive to characterize, measure, and mitigate the regulated pollutants that contribute to poor air quality. This regulation continues to provide the most efficient and cost-effective means to determine the level and impact of excess emissions and to control those excess emissions.

The board, through examination of the regulation and relevant public comments, has determined that the regulatory requirements minimize the economic impact of the emission control regulation on small businesses and thereby minimize the impact on existing and potential Virginia employers and their ability to maintain and increase the number of jobs in the Commonwealth.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Air Pollution Control Board conducted a periodic review and a small business impact review of **9VAC5-45, Consumer and Commercial Products**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 14, 2022, to support this decision.

The regulation is necessary for the protection of public health and welfare, as it is needed to meet the primary goals of the Clean Air Act (CAA), which are the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) and the prevention of significant deterioration of air quality in areas cleaner than the NAAQS.

The NAAQS, developed and promulgated by the U.S. Environmental Protection Agency (EPA), establish the maximum limits of pollutants that are permitted in the ambient air in order to protect public health and welfare. EPA requires that each state submit a state implementation plan (SIP), including any laws and regulations necessary to enforce the plan, that shows how the air pollution concentrations will be reduced to levels at or below these standards (attainment). Once the pollution levels are within the standards, the SIP must also demonstrate how the state will maintain the air pollution concentrations at the reduced levels (maintenance).

An SIP is the key to the state's air quality programs. The CAA is specific concerning the elements required for an acceptable SIP. If a state does not prepare such a plan, or EPA does not approve a submitted plan, then EPA is empowered to take the necessary actions to attain and maintain the air quality standards, that is, it would have to promulgate and implement an air quality plan for that state. EPA is also, by law, required to impose sanctions in cases where there is no approved plan or the plan is not being implemented; the sanctions consist of loss of federal funds for highways and other projects or more restrictive requirements for new industry. Generally, the plan

is revised as needed based upon changes in the CAA and its requirements.

The basic approach to developing an SIP is to examine air quality across the state, delineate areas where air quality needs improvement, determine the degree of improvement necessary, inventory the sources contributing to the problem, develop a control strategy to reduce emissions from contributing sources enough to bring about attainment of the air quality standards, implement the strategy, and take the steps necessary to ensure that the air quality standards are not violated in the future.

The heart of the SIP is the control strategy. The control strategy describes the emission reduction measures to be used by the state to attain and maintain the air quality standards. There are three basic types of measures: stationary source control measures, mobile source control measures, and transportation source control measures. Stationary source control measures limit emissions primarily from commercial or industrial facilities and operations and include emission limits, control technology requirements, preconstruction permit programs for new industry and expansions, and source-specific control requirements. Stationary source control measures also include area source control measures that are directed at small businesses and consumer activities. Mobile source control measures are directed at tailpipe and other emissions primarily from motor vehicles and include Federal Motor Vehicle Emission Standards, fuel volatility limits, and inspection and maintenance programs. Transportation control measures limit the location and use of motor vehicles and include carpools, special bus lanes, rapid transit systems, commuter park and ride lots, signal system improvements, and many others.

Federal guidance on state approach to the inclusion of control measures in the SIP has varied considerably over the years, ranging from very general in the early years of the CAA to very specific in more recent years. Many regulatory requirements were adopted in the 1970s when no detailed guidance existed. The legally binding federal mandate for these regulations is general, not specific, consisting of the Clean Air Act's broad-based directive to states to attain and maintain the air quality standards. However, in recent years, the CAA, along with EPA regulations and policy, has become much more specific, thereby removing much state discretion to craft air quality control programs.

Generally, an SIP is revised as needed based upon changes in air quality or statutory requirements. For the most part the SIP has worked, and the standards have been attained for most pollutants in most areas. However, attainment of NAAQS for one pollutant – ozone – has proven problematic. While ozone is needed at the earth's outer atmospheric layer to shield out harmful rays from the sun, excess concentrations at the surface have an adverse effect on human health and welfare. Ozone is formed by a chemical reaction between volatile organic compounds (VOCs), nitrogen oxides (NO_X), and sunlight. When VOC and NO_X emissions from mobile sources and stationary sources are reduced, ozone is reduced.

Once a nonattainment area is defined, each state is obligated to submit a SIP demonstrating how it will attain the air quality standards in each nonattainment area. First, the CAA requires that certain specific control measures and other requirements be adopted and included in the SIP; a list of those requirements that necessitated the adoption of state regulations is provided below. In addition, the state had to demonstrate that it would achieve a VOC emission reduction of 15%. Finally, the SIP had to include an attainment demonstration by photochemical modeling (including annual emission reductions of 3.0% from 1996 to 1999) in addition to the 15% emission reduction demonstration. In cases where the specific control measures shown in this report of findings were inadequate to achieve the emission reductions or attain the air quality standard, the state was obligated to adopt other control measures as necessary to achieve this end.

For all areas in Virginia:

1. Correct existing VOC regulatory program (controls on certain sources identified in EPA control technology guidelines).

2. Requirement for annual statements of emissions from industries.

3. Permit program for new industry and expansions (with variable major source definition, variable offset ratio for addition of new pollution, and special requirements for expansions to existing industry in serious areas).

4. Procedures to determine if systems level highway plans and other federally financed projects are in conformity with air quality plans.

For all nonattainment areas classified as "moderate" and above:

1. Requirement for controls for all major (100 tons per year) VOC sources.

2. Requirement for vapor recovery controls for emissions from filling vehicles with gasoline (stage II).

3. Requirement for controls for all major (100 tons per year) NO_X sources.

4. Case-by-case control technology determinations for all major VOC and NO_X sources not covered by an EPA control technology guideline.

Therefore, these specific SIP provisions, including implementation of the compliance, testing, monitoring, and recordkeeping provisions of this regulation that are generally applicable to all existing stationary sources in the Commonwealth are necessary for the protection of public health and welfare.

In summary, the regulation has been effective in protecting public health and welfare with the least possible cost and intrusiveness to the citizens and businesses of the Commonwealth, ensuring that owners comply with air pollution emission limits and control technology requirements in order to prohibit emissions that would contribute to nonattainment of the national air quality standards or interfere with the maintenance of those standards. The specific pollutant being effectively controlled under this regulation is one of the ozone-precursors, volatile organic compounds.

The board has determined that this regulation is clearly written and easily understandable by the individuals and entities affected. The regulation is written so as to permit only one reasonable interpretation, to adequately identify the affected entity, and, insofar as possible, in nontechnical language.

This regulation satisfies the provisions of the law and legally binding state and federal requirements and is effective in meeting its goals; therefore, the regulation is being retained without amendment.

This regulation continues to be needed. It provides sources with the most cost-effective means of fulfilling ongoing state and federal requirements that protect air quality.

No comments were received that indicate a need to repeal or revise the regulation.

The level of complexity of the regulation is appropriate to ensure that the regulated entities are able to meet their legal mandates as efficiently and cost-effectively as possible.

This regulation does not overlap, duplicate, or conflict with any state law or other state regulation. The regulation was last reviewed in 2018.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973.

VIRGINIA WASTE MANAGEMENT BOARD

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Virginia Waste Management Board conducted a periodic review and a small business impact review of **9VAC20-70, Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 22, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare and is clearly written and easily understandable. The board is recommending the regulation stay in effect without change. The regulation is beneficial to residents of the Commonwealth.

The current regulation continues to be needed. If a facility for the disposal, transfer, or treatment of solid waste is abandoned, the facility will need to be closed in a manner to minimize impacts to human health and the environment. This regulation requires owners and operators to provide funding to properly close the facility prior to operation of the facility. These requirements protect citizens of the Commonwealth from having to pay for the closure of these facilities if they are abandoned.

During the public comment period, five commenters requested the agency consider changing the financial assurance requirements to strengthen the regulation by providing greater oversight of the financial status of owners and operators of landfills in Virginia in order to protect the public. The regulation provides instruction for financial incapacity of owners, operators, or financial institutions and allows the agency director to reject the proposed evidence of financial responsibility if the mechanism or mechanisms submitted do not adequately assure that funds will be available for closure, post-closure care, or corrective action. Failure to provide or maintain adequate financial assurance in accordance with this regulation shall be a basis for revocation of a facility permit. The amount of financial assurance required to be provided is based on factors such as the facility size and the amount of solid waste managed at the facility. The amount of financial assurance required is based on the estimated costs related to properly close the facility. Privately-owned facilities are required to meet the same requirements as local government-owned facilities in the Commonwealth.

The regulation contains many different ways to demonstrate financial assurance, and these options may make the regulation appear to be complex to some readers, but the multiple financial assurance mechanisms included in the regulation provide additional flexibility to the regulated community, including small businesses.

Federal regulations (40 CFR Part 258) require owners and operators of municipal solid waste landfill units to provide financial assurance. Virginia law requires solid waste treatment, transfer, or disposal facilities to demonstrate financial assurance. The regulation does not conflict with federal law or regulations or with state law.

This regulation was last amended in 2018. Financial mechanisms used to demonstrate financial assurance have not changed since that time. The regulation continues to meet the requirements of state law and are being retained. The regulation includes multiple mechanisms for the regulated community to use to demonstrate financial assurance. The inclusion of multiple mechanisms is beneficial to small businesses.

Contact Information: Suzanne Taylor, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1533.

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 **9VAC25-71, Regulations Governing the Discharge of Sewage and Other Wastes from Boats**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 26, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare and is clearly written and easily understandable. Both untreated and treated sewage may contain disease-causing microorganisms, chemicals, and nutrients. Vessel sewage is more concentrated than domestic sewage, so it can have a disproportionate impact on water quality, especially in sensitive areas near shellfish beds or recreational areas. The regulation lists no discharge zones (NDZs) that have been approved by the U.S. Environmental Protection Agency (EPA) in accordance with § 312 of the Clean Water Act.

The board is recommending the regulation stay in effect without change. The regulation is beneficial to the protection of state waters and is no more stringent than existing requirements under state or federal law. The NDZ included in this regulation have been approved by EPA in accordance with § 312 of the Clean Water Act.

The current regulation continues to be needed. The regulation addresses discharges of sewage and other wastes from boats and identifies designated NDZs. This regulation is needed to prevent contamination of state waters from sewage discharges from boats in order to protect the health and safety of citizens of the Commonwealth.

Section 62.1-44.33 of the Code of Virginia includes language declaring that "tidal creeks of the Commonwealth are hereby established as no discharge zones for the discharge of sewage and other wastes from documented and undocumented boats and vessels. Criteria for the establishment of no discharge zones shall be premised on improvement of impaired tidal creeks." Virginia has applied to EPA for NDZs to be established in waters where local stakeholders and DEQ have determined that greater environmental protection is needed. NDZs are designated when adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available.

No public comments were received during the public comment period.

The subject matter of the regulation is complex in nature and the regulation details the requirements of the program. The regulation establishes NDZs in the Commonwealth, and the prohibition of the discharge of sewage and other waste in these areas upon designation of the NDZ by EPA. The regulation specifies requirements existing in the Code of Virginia with respect to discharges from boats and provides a means of designating NDZs, but it is no more stringent than existing requirements under state or federal law. Federal Marine Sanitation Device Standards found in 40 CFR Part 140 are referenced in this regulation.

The regulation was last amended in 2021 to establish two newly designated NDZs. Changes in technology and economic conditions since 2021 have not impacted the requirements of the regulation.

The agency is recommending the regulation stay in effect without change. The regulation is beneficial to state waters and is no more stringent than existing requirements under state or federal law. The NDZ included in this regulation have been approved by EPA.

Contact Information: Anthony Cario, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 814-7774.

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 **9VAC25-200, Water Withdrawal Reporting**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated July 26, 2022, to support this decision.

Water withdrawal reporting received in compliance with 9VAC25-200 provides foundational data needed to protect public, health, safety, and welfare. The resulting reporting data allows the Department of Environmental Quality (DEQ) to create an annual up-to-date water budget that provides predictability to water users. This information is necessary to develop state, regional, and local water supply plans and is necessary for the evaluation of surface water and groundwater withdrawal permit applications and to maintain both the surface water and groundwater models used in these evaluations. Economic development requires predictability and certainty that a water supply allocated to them will be available for a 30-year period, even under drought conditions. The modeling conducted protects the surface water and groundwater resources from becoming overdrawn. Large withdrawals of surface water and groundwater require permits to be issued before these withdrawals can occur. The most common basis for a new or expanded water withdrawal is to support economic development. These tools inform existing and prospective users of state waters of potential water availability and protect existing user's withdrawals from unaccounted for reductions in supply from drought or new upstream withdrawals. One example demonstrating the effectiveness of this approach is that no emergency withdrawal permit has been needed to meet existing permitted water need during any dry low flow period since 2010. Withdrawal

reporting data is also used in developing total maximum daily loads (TMDLs) and TMDL implementation plans. It is the primary dataset relied on for the Annual Status of Virginia's Water Resources Report, which DEQ produces annually to inform the General Assembly and the public about current water use in Virginia.

The regulation is clearly written and easily understandable by the regulated community. This self-reported data set continues to provide high quality data with little clarification of the regulatory expectations required. The regulation has not changed in many years, and this long-term stability in the reporting requirement provides familiarity and comfort on the part of the regulated community in what the regulation requires.

DEQ proposes to retain the regulation without making changes as the current regulation is necessary for protecting public health, safety, and welfare, as the resulting data is necessary to support water resource management programs that are required to fulfil DEQ's statutory obligations. The information required by this regulation is needed to assess potential future water availability for water supplies and future economic development projects. Having an accurate water balance that is updated annually ensures accurate assessments of available water for future use, providing predictability and certainty that the water supply will continue to be available for growth and development. The regulation currently includes numerous exemptions to reduce the burden on the regulated community, and the program allows fast and simple electronic reporting to meet the single annual reporting requirement.

Given there is no known alternative to collecting water withdrawal reporting data from users that do not otherwise report in compliance with a permit, the regulation continues to be necessary. The regulated community has not expressed concerns with this regulation. The regulation as written reduces the likelihood of users being required to report similar information more than once to DEQ or other agencies and allows for multiple methods to submit reports, including a web-based electronic reporting interface. Reporting is only required once per year. The regulation is clearly written, concise at under four pages in total, and requires no additional guidance. The information required by this regulation is needed to assess potential future water availability for water supplies and future economic development projects.

No public comments were submitted during the periodic review comment period.

Reporting of surface and groundwater withdrawals is required by 9VAC25-210 and 9VAC25-610, respectively, but exemptions have been included in 9VAC25-200 to limit any overlap of reporting. There are no known federal laws or regulations that overlap with this regulation. The information required by this regulation is needed to assess potential future water availability for water supplies and future economic development projects. As additional stress is placed on groundwater aquifers, this information is critical to be obtained to be able to model future groundwater withdrawals and the impact that those withdrawals would have on groundwater aquifers.

A periodic review of the regulation was completed in 2018, and the regulation was retained without change. During that time there have been no significant changes to technology, economic conditions, or other factors related to the requirements, which remain appropriate and reasonable when considering data collection practices and technology available to the regulated community.

The reporting requirements have minimal impacts on small businesses with most businesses unlikely to be supplying their own water at a level requiring reporting. For those that do, the requirements are not burdensome with one annual reporting through the electronic portal providing an efficient and user friendly experience, while hardcopy submissions are allowed for users that prefer that method.

Contact Information: Ryan Green, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4258.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Agency Notice

Pursuant to Executive Order 19 (2022) 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: **12VAC5-150, Regulations for the Sanitary Control of Storing, Processing, Packing or Repacking of Oysters, Clams and Other Shellfish**. The review will be guided by the principles in Executive Order 19 (2022). 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 October 10, 2022, and ends October 31, 2022.

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 Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Sarah Good, Plant Program Manager, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 659-3823.

Agency Notice

Pursuant to Executive Order 19 (2022) 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: **12VAC5-160, Regulations for the Sanitary Control of the Picking, Packing and Marketing of Crab Meat for Human Consumption**. The review will be guided by the principles in Executive Order 19 (2022). 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 October 24, 2022, and ends November 14, 2022.

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 Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Sarah Good, Plant Program Manager, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 659-3823.

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 **12VAC5-490, Virginia Radiation Protection Regulations: Fee Schedule**, and determined that this regulation should be amended. The board is publishing its report of findings dated August 3, 2022, to support this decision.

The regulation is necessary for the protection of the public from unnecessary radiation exposure through routine inspections and registrations of x-ray equipment and radioactive materials.

The Virginia Department of Health (VDH) is recommending that the regulation be amended to reflect increases in the cost of business operations required to perform inspections and ensure protection of the public from unnecessary radiation exposure. The fee schedule included in the regulation was last amended February 7, 2019.

Since then, inflation and the cost of operations associated with inspections, registrations, and licensing of x-ray equipment and radioactive materials has increased. VDH will take into consideration the effect that a fee increase will have on small businesses and will make every effort to amend the fee schedule in a manner that covers the costs needed for effective operations of the Office of Radiological Health.

Contact Information: Cameron Rose, Policy Analyst, Office of Radiological Health, Virginia Department of Health, James Madison Building, 109 Governor Street, Room 731, Richmond, VA 23219, telephone (804) 659-6687.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Medical Assistance Services (DMAS) conducted a periodic review and a small business impact review of **12VAC30-130, Amount, Duration and Scope of Selected Services**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated August 1, 2022, to support this decision.

The primary advantage of the regulation is to facilitate access to a multitude of covered services to improve and maintain health and well-being. The regulation is necessary for the protection of public health, safety, and welfare of Medicaid members. The regulation is clearly written and easily understandable.

DMAS is not recommending any changes to this regulation because the regulation remains essential and has no negative impact.

The regulation is not anticipated to have an adverse impact on small businesses.

Contact Information: Jimeequa Williams, Regulatory Coordinator, Policy, Regulation, and Member Engagement Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 225-3508.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Final Regulation

REGISTRAR'S NOTICE: The Board of Funeral Directors and Embalmers 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: **18VAC65-20. Regulations Governing the Practice of Funeral Services (amending 18VAC65-20-151).**

Statutory Authority: §§ 54.1-2400 and 54.1-2803 of the Code of Virginia.

Effective Date: September 28, 2022.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4479, FAX (804) 527-4471, or email fanbd@dhp.virginia.gov.

Summary:

Pursuant to Chapter 170 of the 2022 Acts of Assembly, the amendment requires one hour of continuing education in laws and regulations or in preneed funeral arrangements each year, with at least one hour of continuing education in preneed funeral arrangements each three years.

18VAC65-20-151. Continued competency requirements for renewal of an active license.

A. Funeral service licensees, funeral directors, or funeral embalmers shall be required to have completed a minimum of five hours per year of continuing education offered by a board-approved sponsor for licensure renewal in courses that emphasize the ethics, standards of practice, preneed contracts, and funding, or federal or state laws and regulations governing the profession of funeral service.

1. One hour per year shall cover compliance with laws and regulations governing the profession~~, and at least one hour per year shall cover~~ or preneed funeral arrangements. At least one hour of continuing education in preneed funeral arrangements must be completed every three years. The one-hour requirement on compliance with laws and regulations may be met once every two years by attendance at a meeting of the board or at a committee of the board or an informal conference or formal hearing.

2. One hour of the five hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic. For the purposes of continuing education credit for volunteer service, an approved sponsor shall be a local health department or free clinic.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell, or offer goods, products, or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

E. A licensee shall be exempt from the continuing education requirements for the first renewal following the date of initial licensure by examination in Virginia.

VA.R. Doc. No. R23-7142; Filed July 29, 2022, 7:49 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

REAL ESTATE BOARD

Final Regulation

REGISTRAR'S NOTICE: The Real Estate 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: **18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-180; repealing 18VAC135-20-210).**

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: October 1, 2022.

Agency Contact: Christine Martine, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email reboard@dpor.virginia.gov.

Summary:

Pursuant to Chapters 380 and 610 of the 2022 Acts of Assembly, the amendments (i) clarify that if an earnest money deposit received by the principal broker or supervising broker, or an agent of such principal broker or supervising broker, will not be held in a firm's escrow account, the principal broker or supervising broker shall ensure that the earnest money deposit is delivered to the escrow agent named in the contract by the end of the fifth business banking day following receipt of the deposit, unless otherwise agreed to in writing by the principals to the transaction; and (ii) repeal disclosure requirements in regulation that are now in statute at § 54.1-2138.2 of the Code of Virginia.

18VAC135-20-180. Maintenance and management of escrow accounts.

A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more federally insured separate escrow accounts in a federally insured depository into which all down payments, earnest money deposits, money received upon final settlement, application deposits as defined by § 55.1-1200 of the Code of Virginia, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's client or expended on behalf of the client, or other escrow funds received by the broker or his associates on behalf of his client or any other person shall be deposited unless all principals to the transaction have agreed otherwise in writing. The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the firm or sole proprietorship. The principal broker shall be held responsible for these accounts, including having signatory authority on these accounts. The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts. All such accounts, checks, and bank statements shall be labeled "escrow" and the accounts shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account may include moneys that shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. Funds in an escrow account shall not be paid directly to the licensees of the firm. The fact that an escrow account contains money that may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by subdivision C 2 of this section, provided that there are periodic withdrawals of said funds at intervals of not more than six months and that the licensee can at all times accurately identify the total funds in that account that belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by subdivision C 2 of this section.

4. Lease transactions: application deposits. Any application deposit as defined by § 55.1-1200 of the Code of Virginia paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a licensee acting on behalf of a landlord client shall be placed in escrow by the end of the fifth business banking day following approval of the rental application by the landlord unless all principals to the lease transaction have agreed otherwise in writing.

B. Disbursement of funds from escrow accounts.

1. a. Purchase transactions. Upon the ratification of a contract, an earnest money deposit received by the principal broker or supervising broker or his associates that is to be held in the firm's escrow account shall be placed in ~~an~~ such escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing by the principals to the transaction, and shall remain in that account until the transaction has been consummated or terminated. If a principal broker or supervising broker, or an agent of such principal broker or supervising broker, receives an earnest money deposit that will not be held in the firm's escrow account, the principal broker or supervising broker shall ensure that the earnest money deposit is delivered to the escrow agent named in the contract by the end of the fifth business banking day following receipt of the deposit, unless otherwise agreed to in writing by the principals to the transaction. In the event that the transaction is not consummated, the principal broker or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in a written agreement as to

their disposition, upon which the funds shall be returned to the agreed upon principal as provided in such written agreement; (ii) a court of competent jurisdiction orders such disbursement of the funds; (iii) the funds are successfully interpleaded into a court of competent jurisdiction pursuant to this section; or (iv) the broker releases the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract that established the earnest money deposit. At the option of a broker, written notice may be sent by the broker that release of such funds shall be made unless a written protest is received from the principal who is not receiving the funds by such broker within 15 calendar days of the date of such notice. Notice of a disbursement shall be given to the parties to the transaction in accordance with the contract, but if the contract does not specify a method of delivery, one of the following methods complies with this section: (i) hand delivery; (ii) United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing; (iii) electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or (iv) overnight delivery using a commercial service or the United States Postal Service. Except as provided in the clear and explicit terms of the contract, no broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. A broker who complies with this section shall be immune from liability to any of the parties to the contract.

A principal broker or supervising broker holding escrow funds for a principal to the transaction may seek to have a court of competent jurisdiction take custody of disputed or unclaimed escrow funds via an interpleader action pursuant to § 16.1-77 of the Code of Virginia.

If a principal broker, supervising broker, or an agent of such licensee is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the principal broker, supervising broker, or agent shall have the right to file an interpleader action pursuant to § 16.1-77 of the Code of Virginia and otherwise comply with the provisions of § 54.1-2108.1 of the Code of Virginia.

If a single family residential dwelling unit is foreclosed upon, and at the date of the foreclosure sale there is a real estate purchase contract to buy such property and such contract provides that the earnest money deposit held in escrow by a firm or sole proprietorship shall be paid to a principal to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract, and the principal broker, supervising broker, or agent of the licensee may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from or notice to the principals.

b. Lease transactions: security deposits. Any security deposit held by a firm or sole proprietorship shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to the transaction. Each such security deposit shall be treated in accordance with the security deposit provisions of the Virginia Residential Landlord and Tenant Act, Chapter 12 (§ 55.1-1200 et seq.) of Title 55.1 of the Code of Virginia, unless exempted therefrom, in which case the terms of the lease or other applicable law shall control. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant. If a single-family residential dwelling unit is foreclosed upon and there is a tenant in the dwelling unit on the date of the foreclosure sale and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing in this section shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.

c. Lease transactions: rent or escrow fund advances. Unless otherwise agreed in writing by all principals to the transaction, all rent and other money paid to the licensee in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, regardless of when received, and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable, except prepaid rent, which shall be treated in accordance with the prepaid rent provision of the Virginia Residential Landlord and Tenant Act, Chapter 12 (§ 55.1-1200 et seq.) of Title 55.1 of the Code of Virginia.

d. Lease transactions: rent payments. If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon and the rent is paid to a licensee acting on behalf of the landlord pursuant to a properly executed property management agreement, the licensee may collect the rent in accordance with § 54.1-2108.1 A 4 of the Code of Virginia.

2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

b. Lease transactions. Unless otherwise agreed in writing by the principals to the lease or property management agreement, as applicable, a licensee shall not be entitled to any part of the security deposit or to any other money paid to the licensee in connection with any real estate lease as part of the licensee's commission except in accordance with the terms of the lease or the property management agreement, as applicable. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant. Except in the event of a foreclosure, if a licensee elects to terminate the property management agreement with the landlord, the licensee may transfer any funds held in escrow on behalf of the landlord in accordance with § 54.1-2108.1 B 5 of the Code of Virginia. If a single-family residential dwelling unit is foreclosed upon, and at the date of the foreclosure sale there is a written property management agreement between a licensee and a landlord, the property management agreement shall continue in accordance with § 54.1-2108.1 A 5 of the Code of Virginia.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction (e.g., fees for appraisal, insurance, credit report) shall not be deducted from a deposit or down payment.

C. Actions including improper maintenance of escrow funds include:

1. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease without acknowledging its acceptance in the agreement;

2. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association;

3. Failure to deposit escrow funds in an account designated to receive only such funds as required by subdivision A 1 of this section;

4. Failure to have sufficient balances in an escrow account at all times for all funds that are designated to be held by the firm or sole proprietorship as required by this chapter; and

5. Failing as principal broker to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee, independent contractor, or employee has caused noncompliance with this section.

18VAC135-20-210. ~~Disclosure of interest.~~ (Repealed.)

~~If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire or is selling or leasing real property through purchase, sale, or lease and the licensee is a party to the transaction, the licensee must disclose in writing that he is a licensee and that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest has or will have an ownership interest to the other parties to the transaction. This disclosure shall be made to the purchaser, seller, lessor, or lessee upon having substantive discussions about specific real property.~~

VA.R. Doc. No. R23-7310; Filed August 1, 2022, 11:00 a.m.

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TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Proposed 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: **20VAC5-430. Rules Governing Designation of Commercial Mobile Radio or Cellular Telephone Service Provider as an Eligible Telecommunications Carrier (adding 20VAC5-430-10 through 20VAC5-430-100).**

Statutory Authority: §§ 12.1-13 and 56-479.4 of the Code of Virginia.

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

Public Comment Deadline: September 26, 2022.

Agency Contact: Shepelle Watkins-White, Deputy Director, Public Utility Regulation Division, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9050, or email shepelle.watkins-white@scc.virginia.gov.

Summary:

Pursuant to Chapter 436 of the 2022 Acts of Assembly, the proposed new chapter establishes rules to govern the designation of a commercial mobile or cellular telephone service provider as an eligible telecommunications carrier for purposes of providing Lifeline services, including (i) filing requirements for an applicant requesting that the State Corporation Commission designate the applicant as an eligible telecommunications carrier in accordance with § 56-479.4 of the Code of Virginia and applicable federal statutes and regulations; and (ii) ongoing requirements for any entity designated as an eligible telecommunications carrier by the State Corporation Commission.

AT RICHMOND, JULY 27, 2022

CASE NO. PUR-2022-00107

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: In the matter of establishing rules governing the designation of a commercial mobile or cellular telephone service provider as an eligible telecommunications carrier for purposes of providing Lifeline services.

ORDER FOR NOTICE AND COMMENT

This order initiates a proceeding to consider establishing rules by the State Corporation Commission ("Commission") to govern the designation of a commercial mobile or cellular telephone service provider as an eligible telecommunications carrier for purposes of providing Lifeline services. During its 2022 Session, the Virginia General Assembly enacted Chapter 436 of the Acts of Assembly, which states:

> The State Corporation Commission may designate any commercial mobile radio or cellular telephone service provider as an eligible telecommunications carrier for purposes of providing Lifeline service, in addition to any commercial mobile radio or cellular telephone service providers designated as such pursuant to 47 U.S.C. §§ 214(e) and (e)(2), without requiring any such provider to obtain a certificate pursuant to the provisions of § 56-265.4:4. The Commission is authorized to promulgate all rules and regulations necessary to implement the provisions of this act.

To facilitate a determination of what rules and regulations are necessary to implement the provisions of Chapter 436 of the 2022 Acts of Assembly, the Staff of the Commission ("Staff") has prepared proposed rules ("Proposed Rules"), which are attached hereto.

NOW THE COMMISSION, upon consideration of the foregoing, is of the opinion and finds that notice of the Proposed Rules should be given to the public and that interested persons should be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Rules. We further find that a copy of the Proposed Rules should be sent to the Registrar of Regulations for publication in the Virginia Register of Regulations.

The Commission takes judicial notice of the ongoing public health issues related to the spread of the coronavirus, or COVID-19. The Commission has taken certain actions, and may take additional actions going forward, which could impact the procedures in this proceeding.[1] Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of comments.

Accordingly, IT IS ORDERED THAT:

(1) The matter is docketed and assigned Case No. PUR-2022-00107.

(2) All comments, pleadings, or other documents filed in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, Copies and format, of the Commission's Rules of Practice and Procedure ("Rules of Practice").[2] Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, Confidential information, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.[3]

(3) Pursuant to 5 VAC 5-20-140, Filing and service, of the Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) The Staff shall forward a copy of this Order for Notice and Comment ("Order"), including a copy of the Proposed Rules, to the Registrar of Regulations for publication in the Virginia Register of Regulations.

(5) On or before August 29, 2022, the Commission's Division of Public Utility Regulation shall publish the following notice as classified advertising in newspapers of general circulation throughout the Commonwealth of Virginia:

NOTICE TO THE PUBLIC OF A PROCEEDING TO ESTABLISH RULES OF THE STATE CORPORATION COMMISSION GOVERNING THE DESIGNATION OF A COMMERCIAL MOBILE OR CELLULAR TELEPHONE SERVICE PROVIDER AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR PURPOSES OF PROVIDING LIFELINE SERVICES

The State Corporation Commission ("Commission") has initiated a proceeding to consider establishing rules to govern the designation of a commercial mobile or cellular telephone service provider as an eligible telecommunications carrier for purposes of providing Lifeline services. The Staff of the Commission has prepared proposed rules for review ("Proposed Rules"). The Commission has issued an Order for Notice and Comment that provides that notice be given to the public and that interested persons be given an opportunity to file written comments on, to propose modifications or supplements to, or to request a hearing on these Proposed Rules.

An electronic copy of the Proposed Rules can be found at the Division of Public Utility Regulation's website: scc.virginia.gov/pages/Rulemaking. A downloadable version of this Order, the Proposed Rules, and related filings is available for access by the public on the Commission's website: scc.virginia.gov/pages/Case-Information.

On or before September 26, 2022, any interested person or entity may file comments on the Proposed Rules by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Such comments may also include proposals and hearing requests. All comments shall refer to Case No. PUR-2022-00107. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the papers filed herein.

STATE CORPORATION COMMISSION

(6) An electronic copy of the Proposed Rules may be obtained by submitting a request to Shepelle Watkins-White in the Commission's Division of Public Utility Regulation at the following email address: Shepelle.Watkins-White@scc.virginia.gov. An electronic copy of the Proposed Rules can be found at the Division of Public Utility Regulation's website: scc.virginia.gov/pages/Rulemaking. Interested persons may also download unofficial copies of the Order and the Proposed Rules from the Commission's website: scc.virginia.gov/pages/Case-Information.

(7) The Commission's Division of Public Utility Regulation shall provide copies of this Order by electronic transmission, or when electronic transmission is not possible, by mail, to: individuals, organizations, and companies who have been identified by the Staff as potentially being interested in this proceeding.

(8) On or before September 26, 2022, any interested person may file comments on the Proposed Rules by following the instructions found on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments. Those unable, as a practical matter, to submit comments electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Such comments may also include proposals and hearing requests. All comments shall refer to Case No. PUR-2022-00107. Any request for hearing shall state with specificity why the issues raised in the request for hearing cannot be adequately addressed in written comments. If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the papers filed herein.

(9) On or before October 24, 2022, the Staff shall file with the Clerk of the Commission a report on or a response to any comments, proposals, or requests for hearing submitted to the Commission on the Proposed Rules.

(10) All documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by this order, all filings shall comply fully with the requirements of 5 VAC 5-20-150, Copies and format, of the Rules of Practice.

(11) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to all local exchange carriers certificated in Virginia as set out in Appendix A; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424, mbrowder@oag.state.va.us.

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[1]See, e.g., Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders, Case No. CLK-2020-00004, 2020 S.C.C. Ann. Rept. 76, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), extended by 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency, Case No. CLK-2020-00005, 2020 S.C.C. Ann. Rept. 77, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), extended by 2020 S.C.C. Ann. Rept. 78, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte:

Electronic service among parties during COVID-19 emergency, Case No. CLK-2020-00007, 2020 S.C.C. Ann. Rept. 79, Order Requiring Electronic Service (Apr. 1, 2020).

[2]5 VAC 5-20-10 et seq.

[3]As noted in the Commission's Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 health issues.

Chapter 430
Rules Governing Designation of Commercial Mobile Radio or Cellular Telephone Service Provider as an Eligible Telecommunications Carrier

20VAC5-430-10. Definitions.

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

"Broadband Internet access service" means a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.

"Commission" means the State Corporation Commission.

"Duplicative support" means a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.

"ETC" means eligible telecommunications carrier.

"FCC" means Federal Communications Commission.

"Lifeline" means a nontransferable retail service offering provided directly to qualifying low-income consumers as defined in 47 CFR 54.401.

"Lifeline service" means telephony, broadband Internet access service, and other supported services as provided by the FCC through its universal service fund for qualifying low-income customer support pursuant to 47 USC § 214 and associated regulations pursuant thereto (see 47 CFR Part 54, Subpart E).

"National Lifeline Accountability Database" is an electronic system, with associated functions, processes, policies, and procedures, to facilitate the detection and elimination of duplicative support, as directed by the FCC.

"Qualifying low-income consumer" means a consumer who meets the qualifications for Lifeline, as specified in 47 CFR 54.409.

20VAC5-430-20. Filing of application.

A. Unless filed electronically, an original and 15 copies of an application seeking designation as an ETC shall be filed with the Clerk of the Commission.

1. An applicant shall deliver a copy of the application to the Division of Public Utility Regulation at the same time it is filed with the Clerk of the Commission.

2. A copy of all confidential information filed under seal with the Clerk of the Commission in connection with the application shall be provided by the applicant, at the time of filing, to the Division of Public Utility Regulation and the Office of General Counsel pursuant to 5VAC5-20-170.

3. Any amendment or supplement to the application shall be filed in compliance with this section.

B. Notice of the application shall be given to all certificated local exchange carriers and other interested parties in Virginia in a form to be prescribed by the commission pursuant to an order.

20VAC5-430-30. Notice of application.

Pursuant to a commission procedural order, the applicant shall publish notice in newspapers having general circulation throughout its proposed service territory.

20VAC5-430-40. Application requirements.

A. An applicant shall submit information that identifies the applicant, including (i) its name, address, and telephone number; (ii) its corporate ownership; (iii) the name, address, and telephone number of its corporate parent, if any; (iv) a list of its officers and directors, or if the applicant is not a corporation, a list of its principals and their directors; (v) the names, addresses, and telephone numbers of its legal counsel; and (vi) the name, address, telephone number, fax number, and email address of the primary in-house regulatory contact, designated to receive all official mailings or notices from the commission or staff. An update of any information for the ETC's primary in-house regulatory contact shall be provided to the commission staff within 30 days of any change.

B. An applicant shall attest that it will meet the requirements set forth in 47 USC § 214 (e)(1)(A) and (B) and 47 CFR Part 54, for designation as an ETC to be eligible to receive federal universal service fund support for Lifeline service provided to qualifying low-income customers in Virginia. All ETCs shall comply with federal requirements except to the extent the FCC has granted a waiver of its rules and regulations. All ETCs shall comply with this chapter except to the extent any waiver is granted pursuant to 20VAC5-430-100.

C. An applicant shall attest that it will maintain current terms, conditions, and rates applicable to its Lifeline service in a link to its service guide posted on its website and shall provide to the commission said link with its application. An ETC shall provide the commission staff an update upon a change to an ETC's web address affecting said link.

D. An applicant shall provide a statement that it will query the National Lifeline Accountability Database to determine whether prospective subscribers are currently receiving a

Lifeline service from another ETC and whether anyone else living at the prospective subscriber's residential address is currently receiving a Lifeline service.

E. An applicant shall attest that it will satisfy applicable consumer protection and service standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

F. An applicant shall demonstrate that it is authorized to do business in the Commonwealth of Virginia by providing the following:

1. In the case of an entity formed under the laws of Virginia: (i) a true and correct copy of its articles of organization or incorporation, certificate of limited partnership, or other organizational documents, and all amendments thereto; and (ii) a copy of the certificate and order issued by the commission.

2. In the case of an entity formed under the laws of a jurisdiction other than Virginia: (i) a copy of the certificate or statement of registration to do business in Virginia issued to it by the commission; and (ii) a true and correct copy of its articles of organization, certificate of limited partnership, or other organizational documents, and all amendments thereto.

G. An applicant shall be required to show that it is financially and technically capable of providing the supported Lifeline service.

1. To demonstrate financial ability, an applicant shall, at a minimum, provide the per books balance sheet, income statement, and statement of changes in financial position of an applicant or the entity responsible for the financing of an applicant, for the two most recent annual periods. Audited financial statements shall be provided, if available, including notes to the financial statements and auditor's letter. Published financial information that includes Securities and Exchange Commission forms 10K and 10Q shall be provided, if available.

2. An applicant shall demonstrate that it is technically capable of providing the supported Lifeline service by, at a minimum, providing the following information:

a. A description of the applicant's or the applicant's parent's history and experience of providing wireless telecommunications or other relevant services, if any; and

b. The managerial and technical experience of each principal officer or member and appropriate senior management and technical personnel.

3. An applicant shall provide a list of the states where the applicant, parent, or any affiliate is designated as an ETC, including the date service was commenced for each.

4. An applicant shall also provide a list of any state where an ETC designation was previously held or Lifeline service was provided and subsequently discontinued and the applicable dates.

5. An applicant shall provide a list of the states where the applicant, parent, or any affiliate has had its ETC designation or authorization denied, suspended, terminated, or revoked. The list shall include the reason for such denial, suspension, termination, or revocation and copies of any orders issued by a state commission or regulatory authority addressing such action.

6. A description of whether the applicant intends to offer the Lifeline service over its own facilities, by resale of another carrier's facilities or services, or through a combination of its own facilities and resale of third-party facilities or services.

7. A provider of wireless telecommunication service who seeks designation as an ETC that does not own facilities must affirm in its application that it:

a. Provides qualifying low-income subscribers access to emergency 911 service and enhanced 911 service, regardless of activation status and availability of minutes;

b. Provides qualifying low-income subscribers handsets that are capable of providing access to enhanced 911 service and replaces at no additional charge any handset that is not capable of providing access to enhanced 911 service; and

c. If required, has a plan for compliance which has been approved by the Wireline Competition Bureau of the FCC.

8. An applicant shall attest that it will comply with the requirements set forth in 47 CFR 54.404.

9. An applicant shall affirm its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

H. A copy of the compliance plan submitted to and approved by the requisite FCC bureau shall be included with any application for ETC designation filed by an entity providing wireless service on a purely resale basis.

I. An applicant must comply with the Lifeline minimum service standards detailed at 47 CFR 54.408.

20VAC5-430-50. Complaints.

Each ETC shall designate a point of contact for the handling of customer complaints received by the commission. When contacted by a member of the commission staff regarding a customer complaint received by the commission, the ETC shall provide the commission staff a written response within 24 hours confirming contact with the customer and describing the plan for addressing the customer's complaint. The ETC shall

provide commission staff a written confirmation when the customer complaint is resolved.

20VAC5-430-60. Reports to the State Corporation Commission.

A. Each ETC shall retain a listing of all of the service areas within Virginia in which the ETC has provided Lifeline service during the preceding 12 months and shall provide such to the commission staff upon request.

B. Each ETC shall promptly furnish such other information as the commission staff may reasonably request, unless otherwise ordered by the commission.

C. Within 30 days of submission to the FCC, each ETC shall submit a copy of its annual report to commission staff pursuant to 47 CFR 54.422.

D. Each ETC shall provide to the commission the annual notarized affidavit required to be filed to support the commission's designation of the use of federal universal service funds as required by 47 USC § 254(e).

20VAC5-430-70. Customer notice requirements.

An applicant shall include in its application, a copy of the rates, terms, and conditions, or weblink thereto, that describes to current and potential customers how notice of any change to rates, terms, and conditions of any aspect of the supported Lifeline service will be provided, including the amount of prior notice any customer will be entitled to before said change is put into effect. The notice to customers shall afford an adequate amount of time for the customer to select another provider before said change is put into effect.

20VAC5-430-80. Suspension of revocation of ETC designation.

A. No carrier shall unreasonably discriminate among subscribers requesting service. Any finding of discrimination may be grounds for suspension or revocation of the ETC designation of public convenience and necessity granted by the commission.

B. Excessive subscriber complaints against a wireless ETC that the commission has found to be meritorious may be grounds for suspension or revocation of the carrier's ETC designation.

C. In all proceedings pursuant to this section, the commission shall give notice to the carrier of the allegations made against it and provide the ETC with an opportunity to be heard concerning those allegations prior to the suspension or revocation of the ETC designation.

20VAC5-430-90. Abandonment or discontinuation of service.

No wireless ETC shall abandon or discontinue service, or any part of service established, unless it provides advance notice to the commission, which shall include a description of the notice to be provided to customers that ensures adequate time to find another service provider.

20VAC5-430-100. Commission authority.

The commission may, at its discretion, waive or grant exceptions to any provisions of this chapter.

VA.R. Doc. No. R23-7312; Filed August 2, 2022, 6:27 a.m.

EXECUTIVE ORDER NUMBER TWENTY-ONE (2022)

Declaration of a State of Emergency Due to Severe Flooding in Southwest Virginia

Importance of the Issue

The Virginia Emergency Support Team (VEST) has been monitoring heavy rainfall and severe flash flooding events that began moving through the Commonwealth on July 27. This event presents significant resource and operational challenges as some portions of Virginia have experienced several days of rainfall and storms with additional rainfall forecasted in the days ahead. The effects of this weather system has already caused flash flooding and significant impacts to roadways and utilities in multiple localities.

The Commonwealth is assisting with ongoing response and recovery operations. Providing response assets and supplies will be necessary to assist our local partners, and the VEST will continue to support this incident.

The anticipated effects of this situation constitute a disaster as described in § 44-146.16 of the Code of Virginia (Code). Therefore, by virtue of the authority vested in me by Article V, Section 7 of the Constitution of Virginia, by §§ 44-146.17 and 44-75.1 of the Code, as Governor and Director of Emergency Management and Commander-in-Chief of the Commonwealth's armed forces, I proclaim a state of emergency. Accordingly, I direct state and local governments to render appropriate assistance to prepare for this event, to alleviate any conditions resulting from the situation, and to implement recovery and mitigation operations and activities so as to return impacted areas to pre-event conditions as much as possible. Emergency services shall be conducted in accordance with § 44-146.13 et seq. of the Code.

Directive

In order to marshal all public resources and appropriate preparedness, response, and recovery measures, I order the following actions:

1. Implementation by state agencies of the Commonwealth of Virginia Emergency Operations Plan, as amended, along with other appropriate state plans.

2. Activation of the Virginia Emergency Operations Center and the Virginia Emergency Support Team, as directed by the State Coordinator of Emergency Management, to coordinate the provision of assistance to state, local, and tribal governments and to facilitate emergency services assignments to other agencies.

3. Authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation, and enter into contracts without regard to normal procedures or formalities, and without regard to application or permit fees or royalties. All waivers issued by agencies shall be posted on their websites.

4. Activation of § 59.1-525 et seq. of the Code related to price gouging.

5. Authorization of a maximum of $1,000,000 in state sum sufficient funds for state and local government mission assignments and state response and recovery operations authorized and coordinated through the Virginia Department of Emergency Management allowable by The Stafford Act, 42 U.S.C. § 5121 et seq. Included in this authorization is$500,000.00 for the Department of Military Affairs.

6. Activation of the Virginia National Guard to State Active Duty.

Effective Date of this Executive Order

This Executive Order shall be effective July 28, 2022, and shall remain in full force and in effect until August 27, 2022, unless sooner amended or rescinded by further executive order. Termination of this Executive Order is not intended to terminate any federal type benefits granted or to be granted due to injury or death as a result of service under this Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 28th day of July 2022.

/s/ Glenn Youngkin, Governor

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 BOARD OF EDUCATION

Titles of Documents: Child Care Subsidy Program Guidance Manual.

Guidelines for Policies on Heat-Related Illness Prevention in Student Athletes.

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Jim Chapman, Regulatory and Legal Coordinator, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, or email jim.chapman@doe.virginia.gov.

BOARD OF MEDICINE

Title of Document: Bylaws for Advisory Boards of the Board of Medicine.

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Erin Barrett, Senior Policy Analyst, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION

Titles of Documents: Transit Strategic Plan Guidelines.

Transit Development Plan Guidelines.

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Andrew Wright, Senior Legislative and Policy Specialist, Department of Rail and Public Transportation, 600 East Main Street, Suite 2102, Richmond, VA 23219, telephone (804) 241-0301, or email andrew.wright@drpt.virginia.gov.

SAFETY AND HEALTH CODES BOARD

Title of Document: Virginia Occupational Safety and Health Program Directive on Outdoor and Indoor Heat-Related Hazards .

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Cristin Bernhardt, Regulatory Coordinator, Department of Labor and Industry, 600 East Main Street, Main Street Centre, Richmond, VA 23219, telephone (804) 786-2392, or email cristin.bernhardt@doli.virginia.gov.

STATE BOARD OF SOCIAL SERVICES

Title of Document: Child and Family Services Manual, Chapter C, Child Protective Services.

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Karin Clark, Regulatory Coordinator, Department of Social Services, 801 East Main Street, Room 1507, Richmond, VA 23219, telephone (804) 726-7017, or email karin.clark@dss.virginia.gov.

DEPARTMENT OF TAXATION

Title of Document: 2022 Guidelines for the Application of the Retail Sales and Use Tax to Sales of Accommodations Facilitated by Accommodations Intermediaries.

Public Comment Deadline: September 28, 2022.

Effective Date: September 29, 2022.

Agency Contact: Joe Mayer, Lead Tax Policy Analyst, Department of Taxation, P.O. Box 27185, Richmond, VA 23261-7185, telephone (804) 371-2299, or email joseph.mayer@tax.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

360 Solar Center Project Notice of Intent for Small Renewable Energy Project (Solar) - Chesterfield County

360 Solar Center LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documents for a permit by rule for a small renewable energy project (solar) in Chesterfield County.

360 Solar Center Project will be located in Skinquarter, Virginia. Latitude and longitude coordinates are 37.363601, -77.776537. The proposed project is a 52-megawatt alternative current photovoltaic solar facility. The project site is proposed to encompass approximately 800 acres, with 450 of those acres within the project fence line (solar panels, solar equipment, stormwater management). The project will utilize approximately 120,000 panels. The site has historically been used for silviculture and has been maintained in planted pines of various maturity and cutover for over 100 years. The project will interconnect to an existing distribution network on site and will not require additional substation or transmission infrastructure.

Contact Information: Susan Tripp, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 664-3470, FAX (804) 698-4178.

Bella Terra Solar Notice of Intent for Small Renewable Energy Project (Solar) - Pulaski County

Hecate Energy Pulaski LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary document for a permit by rule for a small renewable energy project (solar) in Pulaski County. Bella Terra Solar will be located to the north and south of Lee Highway (Route 11), east of Ruebush Road, and east of the town of Dublin. Latitude and longitude coordinates are 37.130556, -80.640278. The project will be sited on roughly 1,056 acres across multiple parcels. The solar array will connect up to 100 megawatts alternating current to Appalachian Power's grid by way of a newly constructed switching station cut into the Glen Lyn #2 - Morgans Cut 138-kilovolt section of the Glen Lyn #2 – Claytor #2 circuit. The project will conceptually use 232,308 photovoltaic solar panels on single axis trackers to follow the sun throughout the day.

Contact Information: Susan Tripp, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 664-3470, FAX (804) 698-4178.

Pulaski I Solar Notice of Intent for Small Renewable Energy Project (Solar) - Pulaski County

Hecate Energy Pulaski LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary document for a permit by rule for a small renewable energy project (solar) in Pulaski County. Pulaski I Solar will be located west of Cleburne Boulevard (Route 100), north of Kent Farm Road, and north of the town of Dublin. Latitude and longitude coordinates are 37.152778, -80.711945. The project will be sited on roughly 1,664 acres across multiple parcels. The solar array will connect up to 150 megawatts of alternating current to Appalachian Power's grid by way of a newly constructed switching station cut into the Hazel Hollow – Glen Lyn #1 138-kilovolt section of the Claytor #1 - Glen Lyn #1 138-kilovolt circuit that is located approximately two miles east of the project site. The project will conceptually use 354,942 photovoltaic solar panels on single axis trackers to follow the sun throughout the day.

Contact Information: Susan Tripp, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 664-3470, FAX (804) 698-4178.

Proposed Consent Special Order for Custom Ornamental Iron Inc.

The Department of Environmental Quality (DEQ) proposes to issue a consent special order to Custom Ornamental Iron Inc. for alleged violation of the Virginia Waste Management Act at the facility located at 10412 Knotty Pine Lane, Glen Allen, Virginia. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. DEQ staff will accept comments by email or postal mail from August 29, 2022, to September 29, 2022.

Contact Information: Jeff Reynolds, Regional Enforcement Manager, Department of Environmental Quality, Piedmont Regional Office (Enforcement), 4949-A Cox Road, Glen Allen, VA 23060, telephone (804) 720-4754, or email jefferson.reynolds@deq.virginia.gov.

Public Comment- Implementation Plan - Yeocomico River Watershed in Westmoreland and Northumberland Counties

The Department of Environmental Quality (DEQ) seeks written comments from interested persons on the development of a cleanup plan, also known as an implementation plan (IP), for the Yeocomico River Watershed in Westmoreland and Northumberland Counties. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires DEQ to develop cleanup studies for pollutants responsible for each impaired water contained in Virginia's § 303(d) Priority List and Report. These streams are listed as impaired since monitoring data does not meet Virginia's water

quality standards of bacteria for the production of edible and marketable seafood or for recreational use. Typically, once a cleanup total maximum daily load (TMDL) report is developed, a clean-up plan then follows. Sections 62.1-44.19:7 through 62.1-44.19:8 of the Code of Virginia, also known as the Water Quality Monitoring, Information and Restoration Act, outlines the requirements needed in a plan to address the nonpoint source load allocations contained in the study.

The cleanup plan addresses the following stream segments: Gardner, Jackson, and Bonum Creeks in Westmoreland County, Mill Creek in Northumberland County, and portions of the Yeocomico River. The stream segments mentioned in this notice do not support Virginia's bacteria standard for the production of edible and marketable seafood or recreation usage. The IP provides measurable goals and the date of expected achievement of water quality objectives. The IP also recommends a specific set of voluntary best management practices (BMPs) for agricultural lands, residential septic systems, and pet waste to reduce bacteria entering area streams and their associated cost, benefits, and environmental impacts. To obtain a copy of the draft IP, contact Ashley Wendt, DEQ Central Office, at email ashley.wendt@deq.virginia.gov or telephone (804) 774-1814.

A technical advisory committee (TAC) to assist in development of this cleanup plan was not established as no requests to form a TAC were received during the initial public comment period. However, two working groups were developed through the course of the planning process. The working groups focused on supplementing and verifying information to incorporate into the bacteria source assessment and to provide input in regards to the BMPs that would work best within the watershed.

The final public meeting on the development of the cleanup plan will be held on Tuesday, August 30, 2022, at 5 p.m. at the Northumberland Public Library, 7204 Northumberland Highway, Heathsville, VA 22473. The purpose of this final public meeting is to seek feedback from watershed stakeholders on the proposed draft plan to restore water quality in the Yeocomico River Watershed. During the meeting, DEQ will discuss and review the draft TMDL Water Quality IP and explain the pollutant reductions needed to meet the targets contained in the TMDL reports prepared for the watershed.

The public comment period begins August 31, 2022, and ends October 1, 2022.

DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the names, mailing addresses, and telephone numbers of the commenter or requester and of all persons represented by the commenter or requester. Questions or information requests should be addressed to the DEQ contact person listed in this notice.

Contact Information: Ashley Wendt, Department of Environmental Quality, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 774-1814, FAX (804) 698-4178, or email ashley.wendt@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/cumultab.pdf.

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